

# JOB-READY GRADUATES PACKAGE DRAFT LEGISLATION CONSULTATION

DIVERSE WOMEN IN LAW

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# 1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

Diverse Women in Law Inc (DWL) is a not-for-profit organisation based in Sydney, NSW that seeks to promote and empower Diverse Women by providing meaningful structural enablers, such as mentoring, networking, and awareness-raising initiatives, early career development and professional growth programs, that proactively enlists industry stakeholder engagement. By empowering Diverse Women through facilitating access to structural enablers and by engaging with stakeholders to raise awareness on the structural barriers faced by Diverse Women, and in turn, advance opportunities to expose the untapped talent of Diverse Women that presently exists in the law, DWL is proactively taking action to enable positive and long-lasting change across the profession.

DWL welcomes the opportunity to provide a submission to the Department of Education, Skills and Employment on certain aspects of the proposed draft legislation to implement the Australian Government's Job-ready Graduates Package. This submission responds to the exposure draft for Higher Education Support Amendment (Job-ready Graduates and Supporting Regional and Remote Students) Bill 2020 (the Bill) and the policy outlined in the Job-ready Graduates Discussion Paper to the extent that it relates to the study of law degrees.

DWL's submission focuses on the extent to which the proposed reforms could give rise to a negative perception of the utility of law degrees. This could result in a lack of diverse representation in the legal profession and compromise representative leadership and access to justice for diverse groups. Further, the submission considers the nature and impacts of the financial burdens placed on students as a result of the proposed reforms and the extent to which this could impact the decision to study and practice law, place severe strain on the ability to repay tuition fees for law degrees and ultimately result in a chronic underrepresentation of diverse individuals in critical aspects of the legal profession.

DWL's submission draws on its members' front-line experience (citing example case studies which capture reactions of certain DWL members to the proposed funding reforms) as well as the policies and laws in other countries around the world.

## 2. SUMMARY OF RECOMMENDATIONS

### RECOMMENDATION 1

DWL recommends that a review be undertaken into whether graduates of science, technology, engineering, and mathematics (STEM) related disciplines provide higher public returns or make a greater contribution to identified national priorities when compared to law and humanities graduates.

### RECOMMENDATION 2

DWL recommends that a review be undertaken into whether, as a result of the proposed funding reforms, graduates from STEM related disciplines will be more job-ready and equipped to boost the economy and drive productivity growth, when compared to law and humanities graduates.

### RECOMMENDATION 3

DWL recommends that a major review be undertaken into whether critical functions of the legal profession, including legal aid organisations and community legal centres, will receive the necessary funding and support to fill any resourcing gaps that may arise as a result of the proposed funding reforms.

### RECOMMENDATION 4

DWL recommends that in order to sustain an inclusive higher education system, the Bill be reformed to focus on the need to ensure that support and investment in higher education is made available specifically for low socio-economic status (SES) applicants studying law degrees.

### RECOMMENDATION 5

DWL recommends that a comprehensive policy that prioritises increased transparency and accountability should underpin the proposed reforms. Universities should be subject to further transparency and accountability (beyond reporting on the cost of teaching) by reporting on how they are maintaining their revenue for law and humanities degrees.

## RECOMMENDATION 6

DWL recommends that adequate measures are undertaken to address structural inequities. The proposed targeted funding arrangements are inadequate to address the existing inequities and the staggered implementation model until 2024 will distort the representation of low SES students in Cluster 1 degrees. The Bill should be reformed to ensure that the National Priorities Industry Linkage Fund (NPILF) and Indigenous, Regional, low SES Attainment Fund casts a wide net to cater towards low SES students from diverse backgrounds who study Cluster 1 degrees.

## RECOMMENDATION 7

DWL recommends the implementation of greater protections during a period of economic recovery from the COVID-19 pandemic. The proposed transitional period of cluster re-alignment (i.e. commencing January 2021) will create significant barriers for low SES applicants who are suffering disproportionate impacts due to the unprecedented changes resulting from COVID-19. The transitional period should be increased for students studying Cluster 1 subjects post COVID-19.

## RECOMMENDATION 8

In order to meaningfully respond to the economic imperatives brought about by the COVID-19 pandemic, DWL recommends a major review into the factors that boost economic and labour force productivity growth and the nature of the changing economy beyond encouraging higher education in certain disciplines.

# 3. SUMMARY OF PROPOSED FUNDING REFORMS

On Friday 19 June 2020, the Commonwealth Education Minister, Dan Tehan, announced the Government's 'Job-Ready Graduates package', involving the introduction of the Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020. This Bill attempts to provide incentives to study in subjects areas that reflect industry needs. One way the Bill proposes to do this is by decreasing the student contribution for certain fields of study (for example, teaching and nursing) in order to incentivise student enrolment in these areas. In order to balance the budget, the Bill proposes an increased student contribution for other courses such as law and humanities. If passed, the Bill will come into effect on 1 January 2021 and will impact students commencing their studies from 2021 onwards. That is, it will not impact students who have commenced their studies before 2021, even if they continue their current program beyond 1 January 2021.

The reforms have been proposed in the context of seeking to counter the economic impacts of the COVID-19 pandemic on the Australian workforce, and economy at large,<sup>[ii]</sup> particularly in light of an increased demand for higher education sparked by the pandemic.<sup>[iii]</sup> The changes to tuition fees are therefore angled towards delivering more graduates in areas of industry and community priority, so as to decrease the burden of forecast unemployment.<sup>[iv]</sup> The reform package focuses on five key principles: agile, focused, innovative, informed and efficient.<sup>[v]</sup> The reforms seek to embody these principles by aligning funding with average costs of delivery, incentivising study in disciplines which are seen as benefiting the national interest, and providing opportunities for growth.<sup>[vi]</sup>

The Job-Ready Graduates Discussion Paper (the Discussion Paper) attempts to reconcile the proposed increase in tuition fees for courses such as law, with reference to an analysis of current funding arrangements compared to costs of delivery. The Discussion Paper notes that on average, law and humanities degrees are under-funded and provides that the proposed fee structure seeks to recalibrate the total base funding in line with costs associated with delivery.<sup>[vii]</sup>

Of particular concern to DWL is that the student contribution for a law degree will increase from \$11,355 per year to \$14,500 per year for a course load of 8 subjects per calendar year.<sup>[viii]</sup> Similarly, the student contributions for accounting, administration, economics, commerce, communications or society and culture will increase from \$8,859 to \$14,500.<sup>[ix]</sup> And while the student contribution amount will increase under the proposed reforms, the Commonwealth contribution will decrease.

The Commonwealth contribution is projected to be \$2,347 for law in 2021 under the current funding arrangements.[x] Under the proposed funding arrangement, this amount will decrease by more than 50% to \$1,100.[xi] The Sydney Morning Herald reports that these changes mean that fees for students of a combined law degree will increase by 28 per cent if the Bill is passed.[xii] This means that law students seeking to undertake double degrees, such as law and commerce or law and arts (which are some of the most popular degrees),[xiii] will be faced with the significant increase in fees for not one, but two degrees. Additionally, a number of leading law schools including the University of New South Wales and the University of Sydney impose a mandatory requirement for their undergraduate law programs to be undertaken as a combined degree.[xiv] This places a heavier financial burden on students wanting to attend those universities.

Additionally, the exposure draft of the Bill contains amendments to the Higher Education Support Act 2003 (Cth), which if enacted, would prevent students who have undertaken eight or more units of study and failed more than half of those from accessing HECS-HELP or FEE-HELP loans. [xv] This means that students wishing to continue their studies will have to pay the fees upfront, which we know is not affordable for the typical undergraduate student that is working part time and/or receiving Youth Allowance payments from Centrelink.

We also note that the Bill refers to establishing an Indigenous, Regional, Low Socio-Economic Status (SES) Attainment Fund (IRLSAF),[xvi] as well as providing funding to regional universities in order to enhance their capacity, and that a number of guaranteed places will be provided for regional and remote Indigenous Bachelor's degree students at select universities. Relevantly, the new Tertiary Access Payment program seeks to incentivise tertiary study for outer regional and remote students who are relocating to undertake full-time study, through the provision of a one-off payment of \$5,000.[xvii] It is estimated that 8160 tertiary students will be eligible for this payment in 2021.[xviii] Whilst we welcome such initiatives that promote more equitable access to higher education, it appears that less than 5% of federal funding will be allocated to the fund.[xix] This is disproportionate to the likely needs and demands of students given that in 2018, all undergraduates who were:

- low socio-economic status students accounted for 17%;
- students living with a disability accounted for 7.3%;
- Indigenous students accounted for 1.9%;
- regional students accounted for 19.8%;
- remote students accounted for 0.79%; and
- non-English speaking background students accounted for 3.4%. [xx]

As discussed below, we do not consider that such measures are effective in addressing the barriers to higher education caused by increased student contributions.

# 4. THE PERCEPTION OF LAW HAVING A LOWER SOCIAL UTILITY IN FOSTERING SOCIETAL PROGRESS

Increasingly, universities are portrayed as worker-creation factories [xxi] where students enter university and at the end of their degrees emerge as job-ready candidates, but only ready for jobs in the area of their respective study. [xxii] This limited characterisation fails to consider the increasingly interdisciplinary nature of the job market and the need for graduates who are adaptable and critical thinkers. It also overlooks the role of universities as places for learning, debate and personal and professional growth. Although technical knowledge is an important component of education and societal progress, it is constantly evolving and requires ongoing training. By contrast, analytical and interpersonal skills are enduring and adaptable to different contexts.

The proposed amendments feed into the narrative that certain degrees including law have lower social utility than STEM courses. Merely evaluating the utility of a degree through an examination of technical knowledge, direct benefits and obvious economic contribution devalues education as a whole and casts a blind eye to the public benefits of skilled law graduates. Law graduates in particular are taught important skills, including how to think critically, form arguments, evaluate empirical and logical claims, communicate succinctly, and design public policy. These skills are valuable both within the legal sphere and in other sectors, such as business, government, industry, political economy, and banking and finance. [xxiii]

Law degrees are valuable not only in the course of legal practice, but equally for the plethora of alternative career paths which law degrees can open. Namely, a legal education provides graduates with a unique understanding of legal and regulatory processes which lend themselves to career paths in areas such as consultancy,[xxiv] policy,[xxv] banking and financial services, [xxvi] and accounting.[xxvii] Beyond the utility of the practical legal knowledge gained from law degrees, the unique ability to devise innovative solutions to issues of justice and accessibility in the law, is vital to ensuring representative leadership in Australia. The proposition that STEM degrees create more ‘job-ready’ graduates is therefore concerning, particularly when considering the increasing focus on legal technology, innovation and clinical legal education programs within Australian law schools.[xxviii] This focus derives from a recognition by law schools of the vital role law graduates will play in anticipating policy and legal implications of technological advancements.

This includes, for example, tackling piracy, privacy, intellectual property, data security and civil liberties issues, and directly challenges the proposition that law graduates are not as ‘job-ready’ as any other graduate.[xxix] In this crucial role of anticipating implications of technological advancements in the legal system, law graduates will also consider any relevant equitable and ethical implications of certain technological advancements, for instance in automation discussions where the ethical implications such as its impact on the employment rate and social values, and human interactions need to be considered.

## 4.1 IMPACTS ON DIVERSITY AND REPRESENTATION IN THE LEGAL PROFESSION AND BEYOND

The adverse impacts on diverse women seeking to enter the profession, as discussed above, can stifle the development of an intersectional approach towards leadership positions. By attempting to impose financial deterrents on students who choose to study law, we risk shrinking the number and diversity of people with these analytical and interpersonal skills. This has significant implications for social justice, policy formation and leadership as minority groups lose genuine representation from people with those lived experiences, and issues which disproportionately affect minority groups who may be neglected at the decision-making table.

We submit that the proposed increase in tuition fees for law degrees will hinder the ability of low SES law graduates to pursue careers which are less well-paying,[xxx] such as in not-for-profit organisations, community legal centres and Legal Aid.[xxxii] Rather, law graduates with low-SES backgrounds may be forced into areas of law which are more profitable, such as commercial and corporate law,[xxxii] in order to repay their large loans, keep up with cost of living pressures [xxxiii] and, in some cases, assist their respective families/communities (i.e. social mobility considerations have a big weight in the decision).

The utility of increasing accessibility to legal education is seen through the increase of female representation in the legal industry. While there has been a significant increase of female law students and practitioners over the last few decades, the systemic issue of unequal representation still exists in leadership positions.[xxxiv] Whilst structural support exists to provide professional and social networks for female students and practitioners,[xxxv] we need to ensure that the front-end barriers to entry into law degrees and a range of careers are reduced.

## 4.2 A LEGAL QUALIFICATION AS AN ENABLER OF LEADERSHIP

Lawyers have also played an integral role in the leadership, administration, and maintenance of Australia's democracy. Lawyers are represented throughout all three branches of government and are also a strong presence in leadership and senior positions of the private sector.[xxxvi] However, there is an urgent need for diversity in the legal profession and in politics.[xxxvii] In DWL's view, the lack of diversity has severe implications including hindering the prospect of achieving proportionate representation of diverse legislators which in turn impacts the democratic legitimacy of Australia. The decision-making function that is vested in our government needs to account for equity considerations relevant to diverse populations, in particular diverse women, who historically have been, and remain underrepresented in the legal profession and beyond.

When it comes to leadership and senior positions in the private sector, the Australian Human Rights Commission has reported that according to the last Australian census, the percentage of senior Australian leaders with non-European cultural backgrounds comprises:

- less than 5% of CEOs of ASX 200 companies;
- 1.61% of public service secretaries and heads of department;
- 3.54% of federal parliamentarians; and
- 0 university vice-chancellors. [xxxviii]

In the last four years the above boardroom statistics have shown no improvement. In fact, a 2020 report has announced that these statistics have worsened, stating that the percentage of board directors who were born outside Australia has decreased to 29.3 per cent,[xxxix] and on the ASX 300, the number of board directors from non-Anglo-Celtic cultural backgrounds has dropped to just 5 per cent. [xi]

In an interesting note, the same report adds that, in spite of the significant increase in female representation in Australian boardrooms, 71 percent of women non-executive directors who are not from Australia are from North America, New Zealand or the United Kingdom. [xli]

Relevantly, the report highlighted the importance of this issue with the following quote:

**(...) Today's boards do not reflect the society we live in, nor do they reflect the international markets in which they operate. Whilst we are making good progress on gender diversity in the boardroom, we still have much to do when it comes to ethnic and cultural diversity.[xlii]**

In private legal practice, notwithstanding that 54% of lawyers are women, only 16% of all equity partners in Australian law firms are female.<sup>[xliii]</sup> To the extent that there has been an increase in gender representation, we understand that this shift is not necessarily reflecting an increase in diverse representation more broadly. For instance, and given the limited statistics available on diversity more broadly, the numbers just give us a glimpse of what the picture looks like in the leadership ranks in private legal practice:

- Asian lawyers comprise:
  - 8% of partners in leading Australian law firms;
  - 1.6% of the bar; and
  - 0.8% of the judiciary. <sup>[xliv]</sup>
- Less than 1% of all lawyers identify as Aboriginal or Torres Strait Islander. <sup>[xlv]</sup>
- On the LGBTQIA+ front, statistics remain scarce. <sup>[xlvii]</sup>

Ultimately, social progress will be limited until our society champions diversity and inclusion and addresses the challenges faced by diverse women. The social utility of fostering diversity in traditional legal roles of advocates and advisors is increasingly important in our multicultural society. Lawyers' attitudes towards social, racial and moral questions 'obviously influences [their] responses to problem situations' and it is necessary 'to view law in a social context to acquire skills to deal [sic] with legal problems.'<sup>[xlviii]</sup> Beyond the legal profession, the valuable skill sets and perspectives of law graduates contribute immensely, including through journalism, creation of not-for-profits, diplomacy, teaching, and writing, to ensuring our social and political systems continue to flourish.

## CASE STUDY: DIVERSE WOMAN IN HER FINAL YEAR OF A BACHELOR OF COMMERCE AND BACHELOR OF LAW DEGREE

I had two primary reasons for wanting to study law. The first was my passion for access to justice and human rights. I wanted to be educated in a way to be able to effectively create change. Secondly, I believed having a legal career would enable me to be able to provide for my family in retirement. Given my parents were immigrants and small business owners, their saved superannuation is significantly low. Accordingly, I wanted to practise in a profession which would hopefully provide me with means to provide for my parents in the future.

I am very privileged to be in my final year of university, where these fees do not affect me. That being said, if I was in my last year of high school, this issue would undoubtedly affect my decision to study law. Having increased university fees, especially in an area where commercial legal jobs are competitive, would have made me extremely anxious about any future earning potential (and, by extension, the ability to look after my parents). The risk of undertaking such an expensive degree, to be potentially met with unemployment, would not be worth it for me.

I have had aspirations to use my legal skills in the not-for-profit legal sector (whether in a voluntary or paid capacity) after gaining the relevant skills after my first few years of practise. This issue essentially eliminates the ability for me to make this aspiration a career choice.

## RECOMMENDATION 1

DWL recommends that a review be undertaken into whether graduates of science, technology, engineering, and mathematics (STEM) related disciplines provide higher public returns or make a greater contribution to identified national priorities when compared to law and humanities graduates.

## RECOMMENDATION 2

DWL recommends that a review be undertaken into whether, as a result of the proposed funding reforms, graduates from STEM related disciplines will be more job-ready and equipped to boost the economy and drive productivity growth, when compared to law and humanities graduates.

## RECOMMENDATION 3

DWL recommends that a major review be undertaken into whether critical functions of the legal profession, including legal aid organisations and community legal centres, will receive the necessary funding and support to fill any resourcing gaps that may arise as a result of the proposed funding reforms.

# 5. FINANCIAL BURDENS FROM PROPOSED REFORMS

## 5.1 ECONOMIC BACKGROUND

In order to explore the financial burdens that the proposed reforms could impose on future university students, it is important to note the following:

- the average price of a residential home in Australia is \$690,200. The cost of property rose 1.6% in the 2020 March Quarter; [xlix]
- unemployment rates are at a 22 year high as at July 2020,[i] having jumped to 7.5%; [li]
- large commodities price movements in response to the impacts of COVID-19 in the June 2020 quarter have resulted in the largest fall to date in the living cost index. The fall was driven largely by the provision of free childcare for Australian families during the quarter for both. This fall relates to employee households (-2.6%) and government transfer recipients (-1.9%);[lii] and
- the wage price index only rose 0.2% in the June 2020 quarter. This is the lowest rise since September 1997. [liii] In May 2020 the average weekly earnings for full-time employed Australians was \$1,714. [liv]

## 5.2 PROPOSED PACKAGE MEANS FINANCIAL BURDENS ON DIVERSE WOMEN

An increase in fees to attend law school will have numerous contractionary effects which will be exacerbated by the current economic background. The first of those effects is that it will deter low SES students, many of them diverse women, from choosing to studying law in the first place. As mentioned earlier, an undergraduate law degree is often combined and so a law degree is a significant financial undertaking. The most popular combined law degrees include Commerce/Law and Arts/Law.[iv] The current tuition fees for these degrees are \$56,700 and \$54,400 respectively, but this is set to increase to \$72,500 as a result of the amendment. [ivi]

The price change must be viewed in light of the significant wage growth slowdown that has occurred in Australia over the past 5 years, with wage growth averaging at 2.2% for January 2014 to December 2018, compared to an average of 3.3% growth from January 2008 to December 2013.[vii] With increasingly stagnant incomes, the additional cost pressure in the form of \$14,000-\$16,000 would be a significant deterrent for any student, as the amount of time required to repay student loans will increase substantially. This will inevitably have the harshest impact on low SES students, who will have greater cost of living pressures and reduced financial support.

Even if that initial barrier is overcome, increased fees will likely decrease the number of students who will complete their degrees. Nationally, around 73.6 percent of students commence but do not complete their university studies.<sup>[lviii]</sup> In a 2015 study, which looked at university completion statistics, the Australian Council for Education Research (ACER) found that that figure for low SES students is lower than the national average. Around 68.9 percent of low SES students complete their university studies and that figure is even lower for Indigenous students, at 46.7 percent.<sup>[lix]</sup> More importantly, ACER found that the most common reasons reported for why students leave university early included health or stress (32 percent), financial difficulties (29 percent) and the need for paid work (25 percent).<sup>[lx]</sup> The reasons for non-completion provided by low SES and Indigenous students in particular related to financial and family obligations, and overall centred on ‘getting by’.<sup>[lxi]</sup> Even if the financial reasons are not related to course completion, financial-stress related issues can still impact on a student’s level of engagement during their studies.<sup>[li-xii]</sup>

Further, for law students who do graduate, increased fees inevitably mean that they are burdened with more debt. This will limit low SES graduates’ choice of careers because they feel pressure to pursue more lucrative sub-fields, rather than positions that they are interested in or which serve a valuable benefit to disadvantaged members of our society (as outlined above). In a 2019 study done by the Law Students’ Society of Ontario, a statement from a student said ‘my employment and career choices feel extremely constrained and structured by my debt load’.<sup>[lxiii]</sup> Another said ‘I chose to pursue law school because I wanted to pursue social justice work and advocate for vulnerable populations. Now that I am halfway through my degree, I realise that this kind of work will be very difficult to pursue with the amount of debt I will graduate with. So I feel as though I have inadvertently closed the precise door that I intended to open by coming to law school’.<sup>[lxiv]</sup> Although Canadian tuition fees are higher, the statements ultimately capture the impact of an upward pressure in tuition fees on certain students’ perceptions on the optimal career pathway to pursue, which could lead to a shift away from aspiration.

This increase in fees also puts the Australian university funding model on a path that might lead to further deregulation, where universities will have more control over the fees they impose. This is incredibly problematic and the 1997 deregulation of university fees in Canada presents us with a cautionary tale. In the 20 years since 1997, Canadian university fees have increased 4.4 to 6.8 times and in 2018-2019 annual fees are CAD 7000 (approximately AUD 7350) to CAD 36,000 (approximately AUD 37,800).<sup>[lxv]</sup> While fees have been re-regulated since, universities are still allowed to increase fees annually at a rate above inflation.<sup>[lxvi]</sup> Such an extraordinary increase in fees will undoubtedly worsen the effects discussed above. However, the Canadian experience also demonstrates that deregulation can result in a wide variation in fees from university to university, where costs correlate with the cost of living of where the university is located. For example, in the Ontario province, the University of Toronto’s annual fees are CAD 38,000

(approximately AUD 39,900), but the University of Ottawa's annual fees are CAD 16,000 (approximately AUD 16,800). In the aforementioned 2019 study done by the Law Students' Society of Ontario, 40 percent of surveyed students (around 700 students) responded that tuition costs affected their choice of law school.[lxvii] If a similar scenario occurs in Australia, this will result in furthering existing inequities because universities in the Australian capital cities will become even more inaccessible for low SES students.

These contractionary effects will have a sequential and structural effect that involves muting diverse representation in various low paying but high social utility benefit sectors of the legal profession. With the increased financial cost of a law degree, low SES law graduates, many of whom are likely to comprise diverse women, will not be able to financially sustain a career in these sectors. These legal sectors refer to, for instance, community legal centres, Legal Aid services and government legal branches, where a diverse representation is crucially important to reach a greater level of representativeness in a general and essential service provided to the community.[lxviii] Such a representativeness also derives a potential to increase social cohesion. [lix] These effects are often overlooked and not accounted for and they are some of the elements which should be considered when assessing the real social utility value of a law degree.

As a practical example of such high social utility of these sectors of the legal profession, it is relevant to note that around 200 Community legal centres are focused on helping people who do not qualify for legal aid and mostly assist people with civil and family law issues, bringing Australians over half a million free legal services each year.[lxx] Over 80 per cent of the people helped by community legal centres receive under \$26,000 a year in income. Furthermore, as helping on individual issues, community legal centres provide essential community legal outreach to inform Australians about the law and prevent legal problems. [lxxi]

DWL's submission argues that the increased financial burden will disincentivise low SES students to study and practice law, place severe strain on the ability to repay tuition fees for law and combined law degrees and ultimately result in a chronic underrepresentation of diverse individuals in critical aspects of the legal profession. To promote access and equity in the community and an equal and fair justice system, DWL urges the Government to reconsider the proposed funding reforms that will result in a disproportionate increase to university fees for law and humanities students.

## CASE STUDY: DIVERSE WOMAN IN HER FINAL YEAR OF A BACHELOR OF COMMUNICATIONS AND BACHELOR OF LAW DEGREE

I decided to study law as I've always loved communicating, and wanted to advocate for social change for women and children who experienced family violence and homelessness like myself growing up. Being able to use that passion for helping others and bringing about a more equal society drew me to law.

As a completely financially independent, low socioeconomic law student, I am entirely reliant on my career succeeding to be able to repay any of my HECS debt. Fees were not a consideration for me when I commenced my studies, mostly because I didn't have the financial acumen to consider the long-term implications of a HECS debt.

The increase in fees increases the terror of my career not succeeding. If I'm unable to secure stable employment, the burden higher fees will impose would be insurmountable. Course costs might not make any difference when students choose what to study, but they certainly make a difference when students decide what to do with their education. The privilege (or lack thereof) that a student has necessarily limits their career choices in the same way as any other debt limits a person's financial freedom.

In my first few years of study, all I wanted to do was work at the Welfare Rights Centre - a community legal centre in Surry Hills. The fund increase announcement, made me realise that I might not be able to adequately repay my HECS debt (including my Centrelink Student Loan debts), establish a nice quality of life for myself and my own family means that the reality of working at a CLC is out of bounds for the earlier stages of my career.

## RECOMMENDATION 4

DWL recommends that in order to sustain an inclusive higher education system, the Bill be reformed to focus on the need to ensure that support and investment in higher education is made available specifically for low socio-economic status (SES) applicants studying law degrees.

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DWL recommends the implementation of greater protections during a period of economic recovery from the COVID-19 pandemic. The proposed transitional period of cluster re-alignment (i.e. commencing January 2021) will create significant barriers for low SES applicants who are suffering disproportionate impacts due to the unprecedented changes resulting from COVID-19. The transitional period should be increased for students studying Cluster 1 subjects post COVID-19.

# 6. WHAT DOES IT MEAN TO BE 'JOB-READY'?

DWL recognises that a strong economic recovery must be prioritised in order to respond to the unprecedented crisis of COVID-19. In this regard, all students (i.e. including but not limited to Cluster 1 students) need to gain the necessary skills to respond to the demand from the workforce and community during the period of recovery from the current recession.

In this regard, DWL advocates for:

- a deeper understanding of the changing economy and the associated considerations, barriers and challenges that tertiary students may face in the job market;
- a deeper understanding of the nature of skills, traits and attributes that are valued in a changing economy, beyond ensuring that graduates are merely 'job ready';
- increased and lengthy consultations with industry counterparts including the workforce, educational and financial institutions to determine the job market demands and economic benefits arising from certain tertiary qualifications;
- pursuing an approach towards tertiary education that accounts for the fluidity of upcoming graduates' careers since the average person is expected to have 17 jobs over their lifetime and market-wide shifts towards flexible working arrangements; [Ixxii]
- undertaking consultations with representative bodies for students from minority or disadvantaged backgrounds in order to anticipate the ethical and equity issues that may arise from a tertiary education sector-wide reform agenda; and
- the need to conduct considered analysis into the nature of technological disruption affecting the market, with evidence suggesting that in order to ensure survival, graduates will increasingly need to be able to demonstrate 'thinking, creativity and writing'. [Ixxiii]

## RECOMMENDATION 8

In order to meaningfully respond to the economic imperatives brought about by the COVID-19 pandemic, DWL recommends a major review into the factors that boost economic and labour force productivity growth and the nature of the changing economy beyond encouraging higher education in certain disciplines.

# ENDNOTES

- i. Diverse Women in Law defines 'diverse women' as individuals who identify as female (cis, trans or gender diverse), identify as being from a range of underrepresented backgrounds (including but not limited to culturally and linguistically diverse persons, Aboriginal or Torres Strait Islander persons, persons with a disability or with caring responsibilities)
- ii. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 4.
- iii. Universities Admission Centre, 'Robust Demand for Uni Study in 2021'(Media Release 4 August 2020).
- iv. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 4.
- v. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 8.
- vi. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 8.
- vii. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 21.
- viii. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 18-19; Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020 s 8.
- ix. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 18-19; Higher Education Support Act 2003 (Cth) s 93-10; Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020 s 8.
- x. Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020 s 22(2), item 1.
- xi. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 18-19.
- xii. Fergus Hunter, 'Cost of priority degrees to be slashed, some fees to soar in funding overhaul' The Sydney Morning Herald (online, 19 June 2020) <<https://www.smh.com.au/politics/federal/cost-of-priority-degrees-to-be-slashed-some-fees-to-soar-in-funding-overhaul-20200618-p553t5.html>>.
- xiii. StudyLink, 'Double or nothing: Studying a combined law degree', StudyLink (Web Page) <<https://studylink.com/articles/double-or-nothing-studying-a-combined-law-degree/>>.
- xiv. The University of New South Wales, 'Undergraduate Degrees', The University of New South Wales (Web Page) <<https://www.law.unsw.edu.au/study/undergraduate>>; The University of Sydney, 'Bachelor of Laws (LLB)', The University of Sydney (Web Page) <<https://www.sydney.edu.au/law/study-law/our-law-degrees/bachelor-of-laws.html>>.
- xv. Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Bill 2020.
- xvi. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 10.
- xvii. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 29.
- xviii. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 29.
- xix. Department of Education, Skills and Employment (Cth), 'Access and Participation' Department of Education, Skills and Employment (Web Page, June 2020) <<https://www.education.gov.au/access-and-participation>>.
- xx. Paul Koshy, 'Equity Student Participation in Australian Higher Education: 2013-2018'(Briefing Note, National Centre for Student Equity in Higher Education (NCSEHE) at Curtin University, 2019) 7.
- xxi. See, eg, Kathleen Lynch, 'Neo-Liberalism and Marketisation: The Implications for Higher Education' (2006) 5(1) European Educational Research Journal 1, 1-2.
- xxii. Zahir Irani 'The University of the future will be interdisciplinary', The Guardian, (online, 24 January 2018) <<https://www.theguardian.com/higher-education-network/2018/jan/24/the-university-of-the-future-will-be-interdisciplinary>>.
- xxiii. Pip Nicholson, 'Why Law Degrees Matter', The Pursuit by The University of Melbourne."(Web Page, 9 February 2018) <<https://pursuit.unimelb.edu.au/articles/why-law-degrees-matter>>.
- xxiv. GradAustralia, The 2019-20 Law Guide: Your Complete Guide to Careers with a Law Degree (GradAustralia, 2019) 30.
- xxv. GradAustralia, The 2019-20 Law Guide: Your Complete Guide to Careers with a Law Degree (GradAustralia, 2019) 34.
- xxvi. GradAustralia, The 2019-20 Law Guide: Your Complete Guide to Careers with a Law Degree (GradAustralia, 2019) 28.
- xxvii. Michael McNamara 'University Legal Education and the Supply of Law Graduates: A Fresh Look at a Longstanding Issue' (2018) 20 Flinders Law Journal 223, 242; GradAustralia, The 2019-20 Law Guide: Your Complete Guide to Careers with a Law Degree (GradAustralia, 2019) 27.

- xxviii. University of Technology Sydney, 'Legal Futures and Technology Major', University of Technology Sydney (Web Page) <<https://www.uts.edu.au/future-students/law/courses/undergraduate-law/why-study-uts-law/legal-futures-and-technology-major>>; Swinburne University of Technology, 'Swinburne's Law Students Create Innovative Legal Tech Solutions on Global Scale', Swinburne University of Technology (Webpage, June 2020) <<https://www.swinburne.edu.au/news/2020/06/swinburne-law-students-create-innovative-legal-tech-solutions-on-global-scale/>>; University of Melbourne, 'Digital Law and Technological Innovation', The University of Melbourne (Web Page) <<https://law.unimelb.edu.au/study/masters/specialist-legal-areas/digital-law-and-technological-innovation>>; Monash University, 'Law, Technology and Innovation: LawTech Teaching and Learning', Monash University (Webpage) <<https://guides.lib.monash.edu/lawtech/teachinglearning>>.
- xxix. Michael McNamara 'University Legal Education and the Supply of Law Graduates: A Fresh Look at a Longstanding Issue' (2018) 20 Flinders Law Journal 223, 242.
- xxx. According to Steven Threagoldm, Penny Jane Burke and Matthew Bunn; Burke, Struggles and Strategies: Does Social Class Matter in Higher Education (Report, 2018) 27: 'Choices are made through being situated in a social trajectory and are also deeply shaped by classed, gendered and racialised inequalities and differences (Jackson et al., 2011). In our study, boundaries to achievement are more heavily felt by participants whose social networks do not include others who have attended university, particularly those who are first in family to study at university. These include restrictions such as time, financial and material resources, sensibilities of confidence and capability and emotional and psychological experiences. In the next section, we will explore how discourses of student choice produce, enforce and maintain social trajectories through practices of social closure within and through university participation.'
- xxxi. Fair Work Ombudsman (Cth), Social, Community, Home Care and Disability Services Industry Award Pay Guide (July, 2020) 2 <<https://www.fairwork.gov.au/pay/minimum-wages/social-and-community-services-industry-pay-rates#pay-guides>>. According to this guide, the maximum salary that one can receive in a community organisation, including a community legal centre is \$106499.12 p.a. However, this would be the peak salary that is likely reserved to the CEO or Principal Solicitor of such an organisation; roles for which one would have had to gain considerable skills and experience.
- xxxii. See Mahlab Recruitment, Mahlab Report: Private Practice (Report, 2019) 9-12 <[https://www.mahlab.com.au/wp-content/uploads/2019/08/7093\\_Mahlab-Report\\_FA-Private-Practice-PRINT.pdf](https://www.mahlab.com.au/wp-content/uploads/2019/08/7093_Mahlab-Report_FA-Private-Practice-PRINT.pdf)>.
- xxxiii. Large commodities price movements in response to the impacts of COVID-19 in the June 2020 quarter have resulted in the largest fall to date in the living cost index. The fall was driven largely by the provision of free childcare for Australian families during the quarter for both. This fall relates to employee households (-2.6%) and government transfer recipients (-1.9%).
- xxxiv. See, eg, when it comes to leadership and senior positions in the private sector, the Australian Human Rights Commission has reported that according to the last Australian census, the percentage of senior Australian leaders with non-European cultural backgrounds comprises: less than 5% of CEOs of ASX 200 companies; 1.61% of public service secretaries and heads of department; 3.54% of federal parliamentarians; and 0 university vice-chancellors: Australian Human Rights Commission, Leading for Change. A Blueprint for Cultural Diversity and Inclusive Leadership (Report, July 2016) 2. In private legal practice, notwithstanding that 54% of lawyers are women, only 16% of all equity partners in Australian law firms are female: Pitcher Partners, Legal firm survey (February 2019) 4 <[https://www.pitcher.com.au/sites/default/files/downloads/survey\\_legal\\_190225\\_national.pdf](https://www.pitcher.com.au/sites/default/files/downloads/survey_legal_190225_national.pdf)>. To the extent that there has been an increase in gender representation, we understand that this shift is not necessarily reflecting an increase in diverse representation more broadly. For instance, and given the limited statistics available on diversity more broadly, the numbers just give us a glimpse of what the picture looks like in the leadership ranks in private legal practice: Asian lawyers comprise 8% of partners in leading Australian law firms; 1.6% of the bar; and 0.8% of the judiciary. Less than 1% of all lawyers identify as Aboriginal or Torres Strait Islander. On the LGBTQIA+ front, statistics remain scarce: Michael Pelly, 'Asian Lawyers Hit Bamboo Ceiling', Financial Review (online, 26 August 2019) <<https://www.afr.com/work-and-careers/workplace/asian-lawyers-hit-bamboo-ceiling-20190425-p51h8w>>.
- xxxv. For instance, Australian Women Lawyers, Women Lawyers Association in each state, diversity and inclusion committees in law firms.
- xxxvi. In 2013 more than 25 percent of Labor and 20 percent of Liberal/National (also known as "Coalition") parliamentarians had law degrees. About 13 per cent of the total of parliamentarians had pursued legal careers prior to entering federal office: Parliamentary Library, Parliament of Australia, The 43rd Parliament: traits and trends (Research Paper 2013-14, October 2013). According to an ABC report published last year, legal professionals (barristers, solicitors, lawyers, etc.) make up 10.6% of the current Australian Parliament ('Do politicians know what it's like to do your job?' ABC News (online,, 9 March 2018) <<https://www.abc.net.au/news/2018-03-09/politicians-professions-do-mps-know-how-to-do-your-job/9360836?nw=0>>; see also Kirrily Schwarz, 'Do lawyers make good politicians?', LSJ Online (online, 8 July 2019) <<https://lsj.com.au/articles/do-lawyers-make-good-politicians/>>; Richard Cooke, 'The people versus the political class', The Monthly, (online, June 2014) <<https://www.themonthly.com.au/issue/2014/june/1401544800/richard-cooke/people-versus-political-class#mtr>>.
- xxxvii. See, eg, Olivia Tasevski, 'Australia's Parliament Looks Nothing like its Community. A Quota would Help Fix It', ABC News (online, 16 March 2018) <<https://www.abc.net.au/news/2018-03-16/ethnic-diversity-quotas-multicultural-australian-parliament/9538954>>. Jane Norman, 'Women Still Underrepresented in Parliament after the 2019 Federal Election', ABC News (online, 27 May 2019) <<https://www.abc.net.au/news/2019-05-27/women-still-underrepresented-in-parliament/11148020>>.
- xxxviii. Australian Human Rights Commission, Leading for Change. A Blueprint for Cultural Diversity and Inclusive Leadership (2016). <<https://humanrights.gov.au/our-work/race-discrimination/publications/leading-change-blueprint-cultural-diversity-and-inclusive>>.

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- xl. Watermark Search International, Board Diversity Survey (2020) 7 <<https://www.watermarksearch.com.au/2020-board-diversity-index>>.
- xli. Watermark Search International, Board Diversity Survey (2020) 7 <<https://www.watermarksearch.com.au/2020-board-diversity-index>>.
- xl. Sir John Parker, Chairman of the Parker review Committee, October 2017 in Watermark Search International, Board Diversity Survey (2020) <<https://www.watermarksearch.com.au/2020-board-diversity-index>>.
- xl. Pitcher Partners, Legal firm survey (February 2019) 4 <[https://www.pitcher.com.au/sites/default/files/downloads/survey\\_legal\\_190225\\_national.pdf](https://www.pitcher.com.au/sites/default/files/downloads/survey_legal_190225_national.pdf)>.
- xliv. Michael Pelly, 'Asian Lawyers Hit Bamboo Ceiling', Financial Review (online, 26 August 2019) <<https://www.afr.com/work-and-careers/workplace/asian-lawyers-hit-bamboo-ceiling-20190425-p51h8w>>. Note that a separate survey by the Asian Australian Lawyers Association found that only 3.1% of partners were of Asian background: Australian Lawyers Association ('AALA'), The Australian Legal Profession: A Snapshot of Asian Australian Diversity in 2015 (Report, 2015) 4.
- xl. Sam McKeith, 'Building diversity in the legal profession', LSJ Online, 4 May 2019. According to this article, 'a recent landmark survey by 11 of Australia's biggest law firms looking at the representation of lawyers from a cultural perspective. The survey, which polled 5,000 staff from across Australia, found that while 20 percent of non-partner lawyers and 25 percent of law graduates were of an Asian background, just 8 percent of partners were Asian. The results on Indigenous representation were even more startling, with less than 1 per cent of those polled identifying as Aboriginal or Torres Strait Islander.'
- xlvi. Sam McKeith, 'Building diversity in the legal profession', LSJ Online, 4 May 2019.
- xl. Michael Kirby, 'Online Legal Education in Australia: The New CQU Law Degree' (Speech, Central Queensland University, 9 May 2011) 4.
- xl. Australian Bureau of Statistics, Residential Property Price Indexes: Eight Capital Cities, March 2020 (Catalogue No. 6416.0, 16 June 2020).
- xl. Australian Bureau of Statistics, Residential Property Price Indexes: Eight Capital Cities, March 2020 (Catalogue No. 6416.0, 16 June 2020).
- l. Mathew Cranson, 'Unemployment rate at 22-year high despite rebound in jobs', The Australian Financial Review (online, 16 July 2020) <<https://www.afr.com/policy/economy/unemployment-jumps-to-7-4pc-as-more-join-workforce-20200715-p55c6b>>.
- li. Australian Bureau of Statistics, Labour Force, Australia, July 2020 (Catalogue No. 6202.0, 13 August 2020).
- lii. Australian Bureau of Statistics, Selected Living Cost Indexes, Australia, Jun 2020 (Catalogue No. 6467.0, 5 August 2020). The 'cost of living' in Australia can be analysed using several indicators from the Australian Bureau of Statistics, namely the Consumer Price Index and Living Cost Indexes for selected households. \*Note: I do not believe this is an accurate depiction of the true cost of living. When I looked into general sources the average \$2,835 per month for a single person who had no dependents. It could be interesting to consider the average government support for individuals who were not employed.
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- liv. Australian Bureau of Statistics, Average Weekly Earning, Australia, May 2020 (Catalogue No. 6302.0, 13 August 2020).
- lv. StudyLink, 'Double or nothing: Studying a combined law degree', StudyLink (Web Page) <<https://studylink.com/articles/double-or-nothing-studying-a-combined-law-degree/>>.
- lvi. Department of Education, Skills and Employment (Cth), Job-ready Graduates: Higher Education Reform Package 2020, Discussion Paper (2020) 17-18.
- lvii. Parliamentary Library, Parliament of Australia, The extent and causes of the wage growth slowdown in Australia (Research Paper, April 2019) 5: <[https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/6609740/upload\\_binary/6609740.pdf](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/6609740/upload_binary/6609740.pdf)>.
- lviii. Daniel Edwards and Julie McMillan, Completing university in a growing sector: Is equity an issue? (Report, August 2018) 33.
- lix. Daniel Edwards and Julie McMillan, Completing university in a growing sector: Is equity an issue? (Report, August 2018) 33.
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- lxiii. Law Students' Society of Ontario, Just or Bust? Results of the 2018 Survey of Ontario Law Students' Tuition, Debt, & Student Financial Aid Experiences (January 2019), 58.
- lxiv. Law Students' Society of Ontario, Just or Bust? Results of the 2018 Survey of Ontario Law Students' Tuition, Debt, & Student Financial Aid Experiences (January 2019), 58.
- lxv. Law School Admission Council, 'Canadian Law Schools', (Web page, 2020), <[https://www.lsac.org/choosing-law-school/find-law-school/canadian-law-schools#:~:text=paying%20for%20your%20legal%20education&text=Tuition%20costs%20at%20Canadian%20law,%247%2C000%20and%20%2434%2C000%20per%20year](https://www.lsac.org/choosing-law-school/find-law-school/canadian-law-schools#:~:text=paying%20for%20your%20legal%20education&text=Tuition%20costs%20at%20Canadian%20law,%247%2C000%20and%20%2434%2C000%20per%20year;)>; Malcolm Mercer, 'The Cost of Becoming a Lawyer', SLAW (online, 26 February 2019) <<http://www.slaw.ca/2019/02/26/the-cost-of-becoming-a-lawyer/>>.

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- lxvii. Law Students' Society of Ontario, Just or Bust? Results of the 2018 Survey of Ontario Law Students' Tuition, Debt, & Student Financial Aid Experiences (January 2019), 24.
- lxviii. According to the Law and Justice Foundation of NSW census of NSW public legal assistance solicitor positions dated 30 June 2009, in all three services, the majority of legal practitioners were employed at the lower level of 'solicitor': 81 percent of all Legal Aid NSW lawyers were employed as solicitors with an average annual salary of \$82,670 (median salary = \$85,650); 85 percent of ALS lawyers were employed as solicitors with an average annual salary of \$55,507 (median salary = \$50,000); and 60 percent of CLC lawyers were employed as solicitors with an average annual salary of \$53,896 (median salary = \$53,534). It should be noted that most solicitors employed by CLCs were generally on a Social and Community Services (SACS) Award (i.e. an award structure basically for social workers) and not an award for lawyers. See S Forell, M Cain & A Gray, 'Recruitment and retention of lawyers in regional, rural and remote New South Wales', Law and Justice Foundation of NSW, (Research publication, 2010) <<http://www.lawfoundation.net.au/ljf/app/54A328EDBF5CA568CA2577DE00175974.html>>
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- lxx. Community Law Australia, Unaffordable and Out of Reach: The Problem of Access to the Australian Legal System (Report, July 2012) 2.
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- lxxii. Foundation for Young Australians, The New Work Smarts: Thriving in the New Work Order (New Work Order Report Series, 2017) 3 <[https://www.fya.org.au/wp-content/uploads/2017/07/FYA\\_TheNewWorkSmarts\\_July2017.pdf](https://www.fya.org.au/wp-content/uploads/2017/07/FYA_TheNewWorkSmarts_July2017.pdf)>; See Foundation for Young Australians, The New Work Standard: How Young people are Engaging with Flexible Work (New Work Order Report Series, 2020) 6 <<https://www.fya.org.au/report/the-new-work-standard/>>.
- lxxiii. Paul Karp, 'Key Crossbencher Says University Fee Changes are Grossly Unfair', The Guardian (online, 19 June 2020) <<https://www.theguardian.com/australia-news/2020/jun/19/key-crossbencher-says-university-fee-changes-are-grossly-unfair>>.