

THE EXPERIENCE OF A SMALL REGIONAL LAW SCHOOL IN PREPARING STUDENTS FOR A JOURNEY THROUGH LAW

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Abstract

In 2004, in recognition of the rapidly changing nature of the legal profession and the necessity to provide graduates equipped with the requisite skills to survive in the legal profession, a review of the first year law program at James Cook University was undertaken. Staff were concerned with student engagement and performance in first year law subjects. In order to address these concerns and to ensure that first year students acquired the necessary skills to progress into later years of the degree and the workforce, a new, completely re-designed first year program was introduced for students commencing their law studies in 2005. The program was designed to reflect current best practice in teaching and learning and offered a fully

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An earlier draft of this paper was presented at the 2005 Australasian Law Teachers Association Conference, The University of Waikato, Hamilton, New Zealand. Various themes emerging from the paper have been presented at School and University presentations and workshops. See, Joanne Roebuck, Lisa Westcott and Dominique Thiriet, 'Reflective Narratives: A Useful Learning Activity and Assessment for First Year Law Students' (2007) 41 *The Law Teacher* 37, which provides a very brief background to the FYE Program and a detailed discussion of reflective narratives. The authors acknowledge the constructive comments made by anonymous referees on earlier drafts of this paper.

integrated and student-centred approach to the teaching and learning of first year students. The staff involved in the project, including sessional staff, have worked and continue to work in a team-based environment for the design, development and implementation of the program. In this paper, two of the staff members involved in the first year program discuss how an integrated curriculum design can be used as an effective tool to engage students and develop generic and legal specific skills.

I. INTRODUCTION

The rapidly changing nature of tertiary education, student expectations and the workforce demands continual reassessment of university courses, curriculum design and pedagogical aims. While it was once thought acceptable for a course to be delivered by a series of lectures to a passive group of students who would be expected to merely restate the information in a final year exam that is no longer the case. We are now overwhelmed with requirements to 'constructively align' course content, to adopt a 'student-centred' approach to teaching, to be innovative in our teaching and to 'engage students' whose interests and commitments extend well beyond the university community. Although a number of university lecturers are embracing this educational challenge, it is suggested that to the majority, these issues are threatening and resource prohibitive.¹

While students' significant financial investment in their education alone demands greater emphasis on teaching, curriculum and course design, the government's insistence on learning and teaching quality frameworks and consequent financial incentives for excellence has placed the issue firmly on the agenda of all schools and faculties.²

¹ See Sally Kift, 'Organising First Year Engagement Around Learning: Formal and Informal Curriculum Intervention' (Paper presented at the Inaugural Pacific Rim – First Year in Higher Education Conference: Dealing with Diversity, Melbourne, 14-16 July 2004) 2 where she notes that 'many of the more engaged teachers are stretched and change-weary; while the balance remain, as they always were change-adverse.'

² As part of the Federal Government's higher education reform package *Our Universities: Backing Australia's Future*, financial rewards are offered through the new *Learning and Teaching Performance Fund* to 'institutions that best demonstrate excellence in learning and teaching.' Commonwealth, *Our Universities: Backing Australia's Future*, Policy Paper (2003) 29.

Nowhere is the need to embrace change more evident than at the first year of an undergraduate degree.³ It is in the first year that students are likely to assess their ability to succeed in a tertiary environment or a chosen career path. They are likely to examine the viability of continuing their studies. Traditionally this assessment may have taken place without any input or consideration of the first year teachers, the school and/or faculty or arguably the university. If a student failed or withdrew from studies it was because of their own inability to learn, not because of any failing in the method of teaching or structural support. In the new world of consumer orientated education, this attitude can no longer be justified or maintained. If a university is to capture a viable proportion of the shrinking market, retain students and survive, it must embrace the philosophy of the *First Year Experience*⁴ (FYE) and provide a program that promotes a successful transition of commencing students to university learners.

This article considers how a small regional law school with limited resources took on the challenge of redefining its first year program to incorporate current best practices in teaching and learning.⁵ In adopting

³ There have been a number of recent studies, conferences and papers focusing on the special needs of the first year undergraduate and the need for renewal of first year programs. See eg, Kerri-Lee Krause et al, *The First Year Experience in Australian Universities: Findings From a Decade of National Studies*, Australian Government, Department of Education, Science and Training (2005) Centre for the Study of Higher Education, University of Melbourne; Kift, 'Organising First Year Engagement Around Learning', above n 1; G Wilson, 'The First Year Initiative – A Vice Chancellor's Perspective', (Paper presented at the Seventh Pacific Rim First Year in Higher Education Conference: Enhancing Transition to Higher Education: Strategies and Policies that Work, Queensland University of Technology, Brisbane, 9-11 July 2003); Sally Kift, 'Transforming the First Year Experience: A New Pedagogy to Enable Transition' (Paper presented at the Enhancing Student Success Conference, Central Coast Campuses, 11 April 2005).

⁴ In using the term First Year Experience in this way we are referring to the accepted view that program development at the first year of university needs to take account of the diversity of students, their particular and changing needs and encompasses a holistic approach to the transition of tertiary studies. See, eg, Kift, 'Organising First Year Engagement Around Learning', above n 1.

⁵ The team involved in the design of the FYE program included Professor Paul Havemann, Diana Henriss-Anderssen, Joanne Roebuck and Aidan Ricketts on the Townsville campus and Mandy Shircore and Lisa Westcott on the Cairns campus. The development of the FYE program described below was heavily influenced by the pioneering work of Professor Sally Kift and her colleagues in the redevelopment of the undergraduate law degree at the Queensland University of Technology. While the program was influenced by that work, it

the philosophy of the FYE, the program incorporated a number of strategies to improve students' sense of connection with the school and the university. These strategies included timely referral and interaction with learning support services, student mentors and administrative services and the employment of a first year support person who provided weekly information and a first point of contact for transition students.⁶

In recognition that 'it is within the formal or academic curriculum that students must find their place, be inspired, excited, engaged and retained',⁷ the FYE team decided that a wholly integrated curriculum for first year students, particularly in their first period of study would provide the best opportunity for engagement and skills development. This paper seeks to share the experiences of two staff members involved in the design, development and implementation of the First Year Experience program in the School of Law at James Cook University. In doing so the paper is divided into three parts. First, it provides a brief overview of the intended outcomes of the program with a discussion of the considerations that informed these outcomes and the overall project. These considerations included the importance of understanding our student body, changes in legal education and current best practices in teaching and learning. The second part of the paper

is acknowledged that the redesigned program at James Cook University cannot seek to replicate that implemented at QUT because of the likely differences in the availability of resources and funding and the level of commitment and support to the redesign of the program. While features of this program at the first year level are similar to those of QUT's program, the differences in the James Cook University program lie in the unique design of the curriculum in the first study period of the program where the subjects are integrated and interwoven to reinforce concepts, skills and enhance understandings. For a comprehensive discussion of the development of the program at Queensland University of Technology see Sharon Christensen and Sally Kift, 'Graduate Attributes and Legal Skills: Integration or Disintegration?' (2000) 11 *Legal Education Review* 207.

⁶ Funding for the part time first year support coordinator came from a small grant provided by the James Cook University Teaching and Learning Development Grant. The weekly e-mail information sent to students was modelled on QUT's first year program (in turn modelled on Deakin University's 'Infoflow Program'). See Kift, 'Organising First Year Engagement Around Learning', above n 1, 12.

⁷ Karen Nelson, Sally Kift and Wendy Harper, "First Portal in a Storm": A Virtual Space for Transition Students' (Proceedings ASCILite 2005, Balance, Fidelity, Mobility: Maintaining the Momentum? Brisbane, QUT, 4-7 December 2005) 509.

describes and illustrates the features of the innovative horizontally aligned curriculum. These features have been specifically designed to enhance the development of a basic skills framework to aid in successful transition to, and progression through, tertiary studies and beyond. The final part of the paper outlines and reports on the preliminary evaluation processes that have been undertaken to date. It also seeks to share the potential pitfalls experienced in maintaining a cooperatively designed curriculum.

II. PART ONE: THE AIMS OF THE FIRST YEAR EXPERIENCE PROGRAM AND CONSIDERATIONS THAT INFORMED THE PROGRAM

The mass expansion of tertiary education in the 1990s has resulted in a diverse student body in terms of demographic background, academic preparedness and abilities.⁸ Research has consistently confirmed that 21st century students are spending less time on campus due to paid employment, family and other commitments and consequently their ability to effectively engage with their university community and studies is threatened.⁹

In a number of the larger Australian law schools, incoming students have generally been considered to comprise an elite group both in terms of socio-economic background and prior academic achievement.¹⁰ At James Cook University, incoming students are generally more likely to

⁸ Dr Kerri-Lee Krause, 'Engaged, Inert or Otherwise Occupied? Deconstructing the 21st Century Undergraduate Student' (Keynote Paper presented at the James Cook University Symposium, Sharing Scholarship in Learning and Teaching: Engaging Students 2005, Townsville/Cairns: James Cook University, 21-22 September 2005); Krause et al, above n 3; Craig McInnis, Richard James and Robyn Hartley, *Trends in the First Year Experience in Australian Universities*, DETYA Higher Education Divisions (2000).

⁹ See, eg, Craig McInnis and Robyn Hartley, *Managing Study and Work: The Impact of Full-Time Study and Paid Work on the Undergraduate Experience in Australian Universities*, Department of Education Science and Training (2002); Kift, 'Organising First Year Engagement Around Learning', above n 1, 4.

¹⁰ While this could be stated more confidently 10 – 20 years ago, it is acknowledged that the national tertiary student body of the 21st century is far more diverse in all universities. See eg, Christensen and Kift, above n 5, 224-227.

be of a lower socio-economic background, rural and mature-age.¹¹ They are also less likely to have achieved as highly academically prior to entry to University. In fact, the entry requirement for the Bachelor of Laws at James Cook University for 2005 was an overall position score of 13 or a comparable ranking for alternative entry paths.¹² This needs to be compared to our southern counterparts whose scores were an overall position score of between 2 and 6 for that year.¹³

In coming to the Law School at James Cook University students are entering a small regional school, with campuses situated in Cairns and Townsville. The school operates with a small complement of full time and part time staff members. Sessional staff members undertake a significant proportion of the school's teaching commitments at all year levels. The school's total undergraduate population is quite small; first year class sizes for the year in which the newly designed program was first offered were approximately 90 and 180 on the Cairns and Townsville campuses respectively.

Understanding and acknowledging the diversity of the student cohort is imperative if schools are to retain students. External financial pressures facing all universities as student numbers decrease and the moral and

¹¹ JCU Student Profile extracted from DEST Statistics. Authors' personal observations.

¹² Students gaining entry through the alternative entry process are ranked by the Queensland Tertiary Admissions Centre on a range of factors including post secondary and professional qualifications, employment experience, personal competencies and the Special Tertiary Admissions Test. Queensland Tertiary Admissions Centre, *Alternative Entry* (2007) <<http://www.qtac.edu.au>> at 3 June 2007. See also the Australian Year Twelve Conversion Table for overall position scores and comparable QTAC selection ranks available at the QTAC website.

¹³ Queensland Tertiary Admissions Centre <<http://www.qtac.edu.au>> at 28 May 2006 (compare scores for the University of Queensland, Queensland University of Technology and Southern Cross University with the scores required for admission at James Cook University). 'Overall Positions, or OPs, provide a statewide rank order of students (on a 1 to 25 scale, 1 being the highest) based on students' achievement in Authority subjects studied for the Queensland Senior Certificate. A student's OP shows how well that student has performed in their senior studies when compared with the performances of all other OP-eligible students in Queensland. OPs are used in the selection of students for tertiary education courses. They are used by tertiary education institutions as one basis for selecting applicants for a course when there are more eligible applicants than quota places for that course.' See Queensland Studies Authority, *Questions about OP (Overall Position)* 2006 <<http://www.qsa.qld.edu.au/tc/faqs/ops.html#1>> at 8 December 2006.

ethical responsibilities we owe to the students who enrol in our courses dictate the need to adjust programs to accommodate diverse student interests and the varying academic abilities of the incoming group. What is needed is an informed coordinated program, which provides a scaffolded approach to obtaining the required academic skills to become successful tertiary students.¹⁴

The staff involved in the FYE redesign were eager to respond to these issues and concerns. After numerous meetings (across the two campuses and often by video-link) and with the assistance of two small grants¹⁵ the team sought to design a program aimed at achieving the following integrated and complementary outcomes:

1. Effectively delivering a fully integrated first year educational package that implemented (across all subjects) constructive alignment of learning outcomes, teaching settings and assessment practices;
2. Implementing a whole of first year, student-centred approach to overcome the compartmentalisation of syllabus subject matter, learning and teaching settings, and assessment;
3. Enabling a transformative, transitional experience that sets the foundations for students to become self-reflexive, independent, responsible learners and ethical scholars;
4. Enhancing the development of first year students' skills and capacities to reverse unacceptable rates of attrition in first year and later years;
5. Encouraging the development of broadly based legal, technological, critical and emotional literacy of students; and
6. Facilitating an ongoing team-based approach to staffing and teaching the first year program that is explicitly inclusive of sessional staff to ensure their identification with, and ownership of pedagogic aims of the program.¹⁶

¹⁴ See, eg, Sally Kift, 'First Year Renewal to Engage Learners in Law', (Paper presented at the Seventh Pacific Rim, First Year in Higher Education Conference, Enhancing Transition to Higher Education: Strategies and Policies that Work, Brisbane, 9-11 July 2003).

¹⁵ The grants assisted with teaching relief, staff training, travel, a support person and evaluation of the program.

¹⁶ James Cook University Teaching and Learning Grant prepared by Professor Paul Havemann and Dianna Henriss-Anderssen on behalf of the FYE team. This paper focuses predominantly on the first, second and fourth of these outcomes. It discusses how the development of first year students' skills and

*A. The Significance of Skills, Constructive Alignment and
Non-Compartmentalisation for Legal Education and for
the FYE at JCU*

The desirability of embedding legal skills into an undergraduate law degree is not a new phenomenon and much has been written on the issue.¹⁷ Since at least the 1980s and the influential Pearce Report,¹⁸ university Law Schools have been grappling with the need to move from a traditional approach to teaching to one which better suits the needs of our graduates in an ever-changing legal environment.¹⁹ As Kift points out:

twenty-first century Australian legal graduates enter a complex, and quite structurally different, professional environment from that of their predecessors, even those of a decade ago. The content, methods and foci of legal knowledge are now also changing so rapidly that, in many areas of practice, the doctrinal law learnt at Law School is no longer current even on graduation.²⁰

capacities may be enhanced through the effective delivery of a fully integrated and constructively aligned educational package that overcomes a compartmentalised approach to curriculum design. In doing so it focuses on the three subjects offered in study period one.

¹⁷ It is not the intent of this paper to provide a detailed review of this literature. For more detailed reviews see, eg, Lyndal Taylor, 'Skills Skills - Kind Inclusion and Learning in Law School' (2001) *University of Technology Sydney Law Review* 8; Fiona Martin, 'The Integration of Legal Skills into the Curriculum of the Undergraduate Law Degree: The Queensland University of Technology Perspective' (1995) 13 *Journal of Professional Legal Education* 45; Bobette Wolski, 'Why, How and What to Practice: Integrating Skills Teaching and Learning in the Undergraduate Law Curriculum' (2002) 52 *Journal of Legal Education* 287; Rachel Spencer, 'Teaching Legal Skills at Flinders - An Integrated Practical Legal Training Program' (2003) *Flinders Journal of Law Reform* 217; Robin Woellner, 'Developing and Presenting a Skills Program in the LLB: A Discussion of Design and Operational Issues' (1998) 16 *Journal of Professional Legal Education* 87.

¹⁸ Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (Pearce Report), Commonwealth Tertiary Education Commission (1987).

¹⁹ See eg, Sally Kift, 'For Better or For Worse?: 21st Century Legal Education', (Paper presented at LawAsia Downunder Conference, Gold Coast, Queensland: 20-24 March 2005).

²⁰ *Ibid* 1.

A shift in emphasis from *what lawyers need to know* to *what lawyers need to be able to do*,²¹ has seen a myriad of different curriculum adaptations across universities to include skills integration. Debate surrounding the degree and method of integration of skills into university law courses is influenced by the concept of legal education held by the educators.²² As Taylor notes there are three central conceptions of legal education; law as a liberal education, law as a training course for lawyers and 'a mixed model that adopts an approach of intellectual training in the context of university with the expectation that most students will practise law.'²³ While ultimately the goal is a consensus across the entire school as to the underlying educational concept and the extent and method of legal skills integration into the undergraduate curriculum as a whole, resources in our law school dictated that skills development within a mixed model approach in the FYE was the primary objective.²⁴ This is useful, given that, the authors' own personal observations are that a significant proportion of JCU law students enter legal practice upon graduation.

Further, it was felt that in order to improve the overall structure of the undergraduate degree program the success of the foundation year was fundamental. This also was consistent with the FYE philosophy adopted by the team and did not detract from the aim to gradually and incrementally extend the program in varying degrees across the remainder of the law program.²⁵

In our case, diversity in the student cohort and a lack of preparedness for further years of tertiary study meant that the acquisition and

²¹ Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, Report No 89 (2000), 2.21 referring to the Commission's comments in Discussion Paper 62 (citations omitted). For a comprehensive overview of the reports discussing the changing nature of legal education in Australia, see Richard Johnstone and Sumitra Vignaendra, *Learning Outcomes and Curriculum Development in Law*, AUTC (2003) Ch 1.

²² Taylor, above n 17, 2.

²³ Ibid (citations omitted).

²⁴ See, eg, Taylor, above n 17. In a comprehensive discussion of the place of skills training in legal education, Taylor identifies the skills recommended in the various reports and the suggested models for integration. These vary from integrated curriculum models, dedicated skills courses, legal clinics postgraduate courses and split models.

²⁵ As a first step, lecturers of second year subjects have been meeting to discuss how to continue developments from the first year program. This has included setting complementary assessment tasks that continue to develop students' various skills to be independent, critical and ethical learners.

development of generic skills, legally specific skills and an ethical awareness needed to be the primary focus of the program. The team was also cognisant of the need to incorporate the university's overall aim in developing the required graduate attributes.²⁶

With a greater appreciation of 'who' we were educating and what it was that we should be educating them about, an additional challenge for our team was to develop, and understand collectively, the educational 'philosophy' underlying our project. This required transcending the traditional approach of the subject coordinator who carefully guards and 'owns' the content and curriculum design of their subject, which it has been argued is a 'significant impediment to change in Australian law schools.'²⁷ Specific subject content was relegated to the final step in the process as themes, values, module design, teaching settings, assessment and integration of subject materials formed the basis of the collective discussions.

The challenge faced by the team was also affected by the 'greater mass [of staff]... not becom[ing] ... overnight champion[s] of the FYE credo...'²⁸ As Le Brun points out '[c]ourses which cut across subject boundaries or in which students draw upon knowledge gained in earlier courses are few because the academic milieu does not encourage and reward collaborative approaches to educational projects.'²⁹ Despite these objections the team engaged with the educational literature that confirmed the need for integration of skills, legal theory and an ethical awareness in a structured, activity based program.³⁰

Members of the first year review team were therefore receptive to the need to focus less on the transmission of content heavy subject

²⁶ Like other institutions, at James Cook University, students completing undergraduate studies are expected to have certain graduate attributes. Those attributes are broken into generic skills and graduate qualities. For further details see the James Cook University website <<http://www.jcu.edu.au/office/tld/teachingsupport/gradattrib.shtml>> at 8 December 2006. See also Christensen and Kift, above n 5.

²⁷ Mary Keyes and Richard Johnstone, 'Changing Legal Education: Rhetoric, Reality, and Prospects For the Future' (2004) 26 *Sydney Law Review* 537, 538.

²⁸ Kift, 'Organising First Year Engagement Around Learning', above n 1, 2.

²⁹ MJ Le Brun, 'Curriculum Planning and Development in Law in Australia: Why is Innovation So Rare?' (1991) 9 *Law in Context* 27, 29.

³⁰ In this paper, the term 'activity based' means that the learning sessions for each subject were enhanced and enriched by using a range of activities including problem solving tasks and buzz groups within the large lecture group and small learning groups within tutorials.

materials and more on the facilitation of learning. While many of the reports discuss the need for curriculum change, '[t]hey give very little direct attention to teaching and learning in law – that is, *how* students should be taught in law schools.'³¹ The traditional view that it was the lecturers' role as expert in their field to impart as much relevant, up-to-date content as they could in a two-hour lecture to a passive audience of students has been replaced with a student-centred focus on learning outcomes, constructively aligned curriculum and active learning environments.³² Providing authentic learning settings has also been seen as an effective way of contextualising the law and legal theory.³³ An understanding of how students learn has been critical in developing new teaching methodologies.³⁴

While it is not the intent of this paper to focus on the theory of student learning, it is necessary to explain briefly some of the theoretical underpinnings the team employed in designing the program. The team was influenced predominantly by the concept of constructive alignment³⁵ and by the approach to student learning described as a deep approach to learning or deep learning.³⁶

The FYE program is predicated on using constructive alignment as a best practice in teaching and learning and does so in two ways. Firstly, it seeks to offer a constructively aligned package across the program as a whole, that is, across the three subjects. Secondly, constructive alignment operates within the three subjects themselves to enhance the learning experience.

The team was cognisant of the need to promote a deep learning approach to students. It was recognised that when students engage in 'deep learning', their intention is to understand by relating 'previous knowledge to new knowledge' and 'theoretical ideas to everyday

³¹ Keyes and Johnstone, above n 27, 545 (citations omitted).

³² See, generally, the works of Paul Ramsden, *Learning to Teach in Higher Education* (2nd ed, 2003); John Biggs, *Teaching for Quality Learning at University* (2nd ed, 2003).

³³ Kift, 'Organising First Year Engagement Around Learning', above n 1, 7. In using the term 'authentic' in the context of this paper we have adopted Kift's meaning, that is 'as authentically work-like as possible', in Kift, 'Transforming the First Year Experience', above n 3, 14.

³⁴ Ramsden, above n 32; Biggs, above n 32.

³⁵ Biggs, above n 32, 11.

³⁶ Ramsden, above n 32, ch 4; see, also Diana Henriss-Anderssen, 'Using Interactive Teaching Strategies in Large Lectures: Some Personal Reflections' (2004) 14 *Legal Education Review* 181.

experience'.³⁷ A student's intention when engaged in 'surface learning' is 'only to complete task requirements' and to 'memorise information for assessments'.³⁸

The team envisaged that aligning the subjects in the First Year Experience program in the way described below would go some way to achieving a deep learning approach, would support students in their learning processes and would encourage skills acquisition and development.

III. PART TWO: THE DESIGN AND IMPLEMENTATION PROCESS³⁹

Students enrolling to study law at James Cook University have a number of options open to them in terms of degree programs.⁴⁰ The University offers a standard, generic 4 year law degree program together with a number of variations on this program including a 3 year graduate law degree program, and a range of combined degree programs. The combined degree programs allow students to study law and another discipline, such as commerce, business, science or social work and are 5 or 6 years full time study.

Prior to the implementation of the new FYE program, a student enrolled in the Bachelor of Laws degree on a full time basis would have enrolled in the following subjects:

Study Period 1	Study Period 2
Legal Systems and Methods	Law in Context
Criminal Law A	Criminal Law B
2 non-law electives	2 non-law electives

The subjects, *Legal Systems and Methods* and *Law in Context* were intended to provide basic introductory understandings of the legal system and legal research, with some reference to legal theory. Within this program each subject operated as a stand alone unit with no

³⁷ Ramsden, above n 32, 47.

³⁸ Ibid.

³⁹ This paper focuses on the three subjects delivered in study period 1 of 2005.

⁴⁰ For further information see the James Cook University website, <<http://www.jcu.edu.au/law/>> at 3 June 2007.

integration or interaction with the other subjects within the first year of the degree program. If skills were being acquired and developed, it was more than likely that it was taking place implicitly rather than explicitly.

As part of the review process, it was decided that students would be required to undertake a number of new introductory law subjects as part of their degree program. The new law subjects are ultimately undertaken by all law students regardless of the degree program that they have enrolled in. By way of illustration, students enrolled in the Bachelor of Laws degree on a full time basis are required to enrol in the following program for their first year of study:

Study Period 1	Study Period 2
Legal Institutions and Processes	Law Society and Change
Legal Research, Writing and Analysis	Legal Concepts
Contract Law 1	Contract Law 2
1 non-law elective	1 non-law elective

The new program has seen a shift from requiring students to complete 2 introductory law subjects to 4 introductory law subjects together with a change in the substantive law subject from Criminal Law to Contract Law.⁴¹

The new First Year Experience program adopts a more intentional, explicit and collaborative approach. For instance, as part of the review process it was agreed that students emerging from the First Year Experience program should possess and continue to develop a number of generic and legally specific skills. The agreed skills dispersed throughout the First Year Experience program include a capacity for directed self-learning, reading for comprehension, written and oral communication skills, interpersonal communication skills and teamwork, legal research in both traditional hard copy and electronic form, a capacity to identify legal issues and resolve legal problems, legal method and reasoning, critical analysis, value clarification and ethical awareness.

With the aim of enhancing the development of first year students' skills and capacities through the effective delivery of a fully integrated,

⁴¹ At previous School of Law meetings it was agreed that the concepts and content of *Contract Law 1* were better suited to integration with the other introductory first year subjects.

constructively aligned and non-compartmentalised educational package, the team agreed that in each of the three first study period subjects, four common modules would be covered. These modules were to provide the framework for the whole study period 1 program. The four modules agreed to by the team and adopted by the three subjects were an Ethical Orientation to the Law and to the Study of Law, Governance as a Conceptual Tool (Sources of Law), Governance through Adjudicative Law and Governance through Law in its Legislative Mode.

As portrayed in the examples below, within each of those modules, the learning outcomes and content for each subject complemented the other. Authentic interactive learning settings were employed to make the learning experience motivational and stimulating and to assist in the development and enhancement of generic and legal specific skills. Examples of the teaching and learning settings utilised range from the traditional lecture and tutorial, to buzz groups within the large lecture theatre environment,⁴² debate style discussions within the large lecture environment, role plays, small group work within the tutorial setting as well as mediation exercises and authentic teaching settings.

Theoretical and ethical considerations were gradually introduced at various points within the individual subjects. This provided students with the opportunity to develop an understanding of substantive legal concepts before tackling the more challenging nature of legal theory and ethics.⁴³ This provided greater opportunity for contextualising legal theory within practical examples, enhancing understanding, and avoiding the valid criticism that locating these topics into discrete units marginalises their relevance to an understanding of the law.⁴⁴ Key concepts and theories were introduced incrementally across all three subjects with the generic and legal skills in each subject carefully situated to ensure all were covered. Skills acquisition and development therefore took place in a supported and scaffolded structure, enabling students to build the confidence necessary to take the skills to the next level.

⁴² Henriss-Anderssen, above n 36.

⁴³ So for example, in *Contract Law 1*, classical contract theory was introduced when studying formation of contracts to help explain the underpinnings of elements such as consideration. Relational contract theory was illustrated and explained through the study of implied terms and the implied duty of good faith.

⁴⁴ See eg, Keyes and Johnstone, above n 27, 550.

In addition, complementary assessment tasks were designed to measure skill acquisition and development as well as an understanding of content. Assessments were set and carefully situated throughout the study period to avoid student overload. Students were also provided with explicit assessment criteria and instructions for assessment items early in the study period.

So where other institutions may have aligned or integrated *skills* only on a vertical and/or horizontal plane, our subjects created a platform for contextualised skill development by integrating *skills and concepts/content* on a horizontal basis across the three subjects.⁴⁵ As we see it, the advantages of horizontal alignment of skills, content, teaching and learning settings and assessment in this manner are that it allows for the development and understanding of the law as a unified discipline, where the relevance of what is learnt in one subject area is readily identified and related to another subject area. This avoids the unrealistic view that the law consists of a number of discrete and separate rules and compartmentalised subject areas that have little impact on each other. Linking the subjects in this manner enables students to engage with, and encourages them to appreciate that the law operates from a range of different perspectives and on varying levels, thus reinforcing concepts and ideas and enhancing understandings.

*A. Some Illustrations of the Skill Development,
Constructive Alignment and Non-Compartmentalisation
in the Context of the Three Subjects*

Module 1—An Ethical Orientation to the Law and to the Study of the Law

In the course of this module, across all three subjects, students were introduced to what would be expected of them as learners and the different learning approaches that might be available to them. In *Legal Institutions and Processes* the role of law in society, legal education and law as an academic discipline were discussed and reflected upon. In *Legal Research, Writing and Analysis* students were introduced to the subject and what would be expected of them as learners. Issues of academic misconduct, plagiarism and the need to reference legal writing were also addressed. Early in the study period, students were

⁴⁵ See eg, the law program at the Queensland University of Technology. Note that those staff members from the FYE team who also teach in later years of the degree program, continue to develop the first year skills within their subjects on a vertical plane.

assessed on the acquisition and development of referencing and writing skills with the offer of timely support from the University's Learning Centre. To illustrate the issue of ethics, students participated in an interactive activity relating to being undercharged for a purchase at a shop and what their response would be.⁴⁶ The activity required students to consider issues such as ethics, morals and values in life generally with a view to considering those issues more specifically in their role as law students. In *Contract Law 1*, issues of student misconduct and plagiarism were reinforced and as part of the orientation to law, students were introduced to an authentic learning setting that was to form the basis of the weekly interactive activities in the large lecture group.⁴⁷

Module 2 — Governance as a Conceptual Tool (Sources of Law)

This module was essentially designed to introduce students to the two main sources of law, case law and legislation. Considering the sources of law across the three subjects gave students the opportunity to think about them from a variety of perspectives. For example, in *Legal Institutions and Processes* students considered topics such as sovereignty, sovereign power, conquest and colonisation and the Australian model of governance. At the same time in *Legal Research, Writing and Analysis*, students were being introduced to a number of complementary concepts including what is law, law and morality and sources of law including methods of adjudication. The information in this module provided a contextualised foundation for the doctrine of precedent and statutory interpretation which were to be covered in subsequent modules. Library exercises and case studies used contract law examples to reinforce studies being undertaken in the third law subject. In *Contract Law 1* explicit reference was made to the importance of understanding sources of law and how they affected the development of contract law. The need for regulation of private agreements was considered as a practical example of governance as a conceptual tool. At this time students were also introduced to contract formation and classical contract theory was used to illustrate the requirements of consideration.

⁴⁶ This activity is adapted from Ysaiah Ross and Peter MacFarlane, *Lawyers' Responsibility and Accountability Cases, Problems and Commentary* (2nd ed, 2002) 5.

⁴⁷ This authentic activity required students to assume the role of a person moving out of home into a share house, to consider the arrangements that might arise from living in a share house and what may be required for such arrangements to be considered contractual.

Module 3 — *Governance through Adjudicative Law*

Across all three subjects, the purpose of this module was to introduce students to a variety of perspectives in relation to case law and legal reasoning. For example, in *Legal Institutions and Processes*, an overview of the judiciary, judicial reasoning, the court system and access to adjudication was undertaken. An assessment item for this subject required students to attend court sessions and to write a report of the proceedings observed. An additional assessment item for this subject was a critical essay which required students to analyse and critique judicial styles.

At the same time in *Legal Research, Writing and Analysis*, students were introduced to case notes and further developed skills in finding, researching and citing cases. The case of *Carlill v Carbolic Smoke Ball*, a key case for *Contract Law 1* was used as a detailed example for this purpose. Students undertook a detailed analysis of the doctrine of precedent. As part of their assessment for tutorials, for 10 weeks, they were required to submit a weekly reflective narrative. This task required students to reflect on a topic covered in the tutorial. The purpose of the assessment was to develop written communication skills and to lay the foundations for critical and reflective thinking.⁴⁸ Students completed a take home examination which required them to answer a precedent problem question and write a short reflective essay on the doctrine of precedent. This assessment was designed to assess the acquisition and development of problem solving skills (legal reasoning and analysis), written communication skills and referencing skills within the context of the law relating to the doctrine of precedent.

To complement learning in the above two subjects, examples of judicial activism in *Contract Law 1* were considered in this module. The courts' role in interpreting contracts and the history of estoppel was used to reinforce students understanding of the development of equity and the doctrine of precedent. Judicial reasoning was examined through the rules of privity and the underpinnings, assumptions and theories of *Contract Law 1* were introduced to help explain different issues relevant to contract formation. Upon completion of this module students were required to submit a tutorial portfolio. This assessment was designed to invoke effective study and time management skills.

⁴⁸ For a more detailed discussion on reflective practice see Karen Hinett, *Developing Reflective Practice in Legal Education* (2002) UK Centre for Legal Education. See, also, Joanne Roebuck, Lisa Westcott and Dominique Thiriet, 'Reflective Narratives: A Useful Learning Activity and Assessment for First Year Law Students' (2007) 41 *The Law Teacher* 37.

Recognising that students learn most effectively from active engagement, reflection and formative feedback, students were required to attend tutorial classes prepared to discuss that week's tutorial task in buzz groups and whole of class discussions. Communication skills, writing skills, reflection and problem solving were emphasised. After tutorials students would be in a position to refine their tutorial answers to be later submitted in the portfolio.⁴⁹

Module 4 — *Governance through Legislative Law*

Establishing Australian legislatures, parliamentary processes and the tradition of parliament were introduced in *Legal Institutions and Processes* in the course of undertaking this module. These concepts were further developed in *Legal Research, Writing and Analysis*, where students were required to consider the importance of legislation, the legislative process, researching and citing legislation and a detailed analysis of statutory interpretation. At about the same time in *Contract Law 1*, students considered the history behind and the reasons for statutory intervention in contract law. Using consumer and tenancy legislation as examples, students traced the process of community activism and lobbying to restore the power imbalance inherent in contract formation. The use of legislation in this way linked back to research activities conducted in *Legal Research, Writing and Analysis* earlier in the study period and provided another avenue for the study of 'governance through legislative law'. Across the three subjects students were provided with a variety of perspectives on the legislative process with authentic and engaging activities and explicit reference to what was being developed in each of the complementary subjects.

⁴⁹ Tutorial tasks varied to reflect the learning activities undertaken in lectures. Examples of tutorial tasks included a negotiation exercise where pairs of students were given a hypothetical buyer and seller role and were required to negotiate the sale of second hand furniture via email. They were then called upon to identify and define the various stages of their negotiation in terms of contract formation. Traditional hypothetical tutorial problem scenarios were placed within the context of a memo from a senior solicitor to an articulated clerk with memo requests increasing in complexity as student skills increased. Students were also asked to provide reflective notes on two topics with reference to contract theory. While students were required to hand in six tutorial tasks, they could choose which three tasks were to be assessed. Explicit and detailed assessment criteria were given as well as feedback from the tutor and fellow students during the tutorial, ensuring students were well versed in the requirements for each task. While students received marks for only three tasks, examiners provided formative feedback on all six tasks submitted.

All three subjects required students to undertake end of study period open book examinations.⁵⁰ These examinations included essay, short answer and problem style questions designed to assess understanding of essential concepts and content material, written communication skills, critical reasoning/thinking and analysis and problem solving skills. The style of questions students were required to complete were similar to those encountered during the course of the study period.

IV: PART THREE: EVALUATION & MAINTENANCE OF THE PROGRAM

A. Evaluation

The success or otherwise of program re-design is difficult to measure particularly in relation to comparisons with previous student performances. Such comprehensive changes in the forms of assessment, methods of teaching and the introduction of new subjects at a first year level, in conjunction with the diversity in student intake in any given year, make any direct comparison of student's grades difficult to assess. Despite this the FYE program has undergone some preliminary evaluation and will continue to do so. Evaluation methods employed include student questionnaires, staff reflective diaries and university based evaluations on teaching and the subjects.

While the questionnaires elicited a myriad of background information about students and their expectations and approaches to the study of law, of greatest significance to this paper was the response to the curriculum integration of the study period one subjects. In terms of integration of subjects across the FYE, 75 percent of students in Cairns and 81.6 percent of students in Townsville responded positively to the question, 'the design of the first year Law subjects is encouraging me to relate what I am learning in each subject to what I am learning in the

⁵⁰ Rule 2.28(b) of the JCU Teaching and Assessment Code of Practice requires a minimum of 50% of assessment to be invigilated. 'For on-campus undergraduate subjects and on-campus postgraduate course work subjects, non-invigilated assessment pieces for which students might utilise editorial support should not account for more than 50% of the final mark, except in subjects with a designated research project.'

<http://www.jcu.edu.au/policy/teaching/teaching/JCUDEV_005336.html> at 3 June 2007. While we recognise that there are other forms of assessment that can be considered to be invigilated, this requirement has generally promoted a heavy reliance on end of study period examinations as the major form of assessment in law subjects throughout the degree.

other subject(s)'.⁵¹ Some examples of comments on 'what I have liked most in the first year law program' included, 'it is all integrated into all 3 subjects. By having some similarities, it helps me learn more efficiently'; 'I really enjoy how other courses mix or are tied to other first year courses'; 'how each subject relates to the other'. This data evidences that the program appears to be achieving one of its major goals.

Staff also assisted in evaluation by completing weekly reflective diaries because as Ramsden notes 'good teachers are always evaluating themselves'.⁵² Teachers were asked a series of questions attempting to gauge the effectiveness of the class and interactive activities employed. Staff used their reflective diaries on an informal basis to continue to improve and refine the teaching settings, content and delivery of the First Year Experience program.

B. Maintenance of the Program

As part of the reflection undertaken by staff involved in the program, it has become clearly evident that maintaining the FYE program as designed is resource and time intensive. Designing innovative role plays, simulations and interactive tasks each week to effectively engage students in an intellectually and emotionally stimulating environment is challenging. Additionally, the modes of assessment chosen for each subject were exceptionally time consuming. However, this was considered to be a fundamental part of the program, designed to engage students immediately in the subject matter and enhancing the understandings and skills of the first year students.⁵³ Modelling and formative assessment provided early in the study period afforded students the opportunity to immediately engage with the material rather than waiting in fear of the unknown summative assessment item.

⁵¹ The survey was conducted in week 8 of the study period. 71.6% of students enrolled in Legal Research, Writing and Analysis at the time of the survey completed the survey.

⁵² Ramsden, above n 32, 209. See, also SE Brookfield, *Becoming a Critically Reflective Teacher* (1995) 1-27. Staff signed consent forms for this evaluation.

⁵³ This was particularly the case with the reflective narratives which sought to engage students to think and reflect upon aspects of the new knowledge they were gaining each week. It also provided students with the opportunity to incrementally improve their written communication skills. Similarly in *Contract Law 1* requiring students to complete the tutorial portfolio made them engage in the subject matter from week one. Each week the complexities and demands of the tutorial tasks increased in line with the development of student skills.

Where a program relies heavily on sessional staff it is imperative that they too have a thorough appreciation of the underlying philosophy and aims of the program and are engaged in the process. Sessional staff may have limited, if any, teaching experience⁵⁴ and as Kift notes, '[a]s so often occurs in the first year experience, there is another mismatch of expectations and abilities, in this instance in the misalignment of at-risk first year student[s] with [the] inexperienced casual academic.'⁵⁵ To effectively mitigate against this mismatch and to achieve cohesion within the entire team delivering the program, we conducted a series of workshops with sessional staff acquainting them with the educational literature, reports and reviews that informed our curriculum design. Workshops included interactive activities and provided sessional staff with an opportunity to share their experiences and ideas. This also enhanced the collaborative team approach to program development and delivery. These workshops were in addition to the University generic workshops which the sessional staff also attended.

Detailed guides were prepared for tutors that outlined activities, teaching settings, answer guides (where appropriate) and methods of delivery for each tutorial. These were presented to sessional tutors prior to commencement of each module to enable a holistic and complete understanding of the program development. Tutors reported that the guides were an extremely valuable teaching tool providing them with an opportunity to thoroughly prepare within a semi-structured framework. The guides also assisted in ensuring consistency in the material being delivered across both campuses.

Maintenance of the program relies heavily on the commitment of the full and part time staff involved in the program.⁵⁶ Staff members leave, take leave and or have other teaching commitments making it difficult to maintain consistency in teaching staff from one year to the next. In these circumstances, the support of the school as a whole (and even Faculty and University support) to the program and in particular to the staff involved in teaching the program is vital. A collaborative and cooperative approach is necessary to make such an interlinked FYE

⁵⁴ As is the case with the majority of sessional staff, they are generally legal practitioners whose only experience of teaching of law was from their own experiences as an undergraduate law student. Invariably this experience was of the traditional lecture/tutorial transmission mode.

⁵⁵ Sally Kift, 'Assuring Quality in the Casualisation of Teaching, Learning and Assessment: Towards Best Practice for the First Year Experience' (2003) March *UtiBASE*, 4.

⁵⁶ See further Christensen and Kift, above n 5, 234.

program survive and be sustainable while at the same time continue to improve.

V. CONCLUSION

So has it all been worthwhile? Measured against the three outcomes which are the focus of this paper we believe so. While some of the outcomes as yet are immeasurable and there have been a number of hiccups in the initial implementation and maintenance of the program, overall the program has delivered an integrated curriculum that has assisted in developing students' skills to an appropriate level for continuation of their tertiary studies.

For staff involved, the shift from a transmission mode of delivery to a curriculum designed to be engaging, authentic and active has been extremely challenging but at the same time it has been extremely rewarding. Working closely with colleagues, sharing and developing educational philosophies and working across subject areas has provided an opportunity to openly scrutinise the curriculum from varied perspectives.

There is still a lot of work to be done. Further evaluation and refinement will continue as staff and students provide valuable reflections on how the program has been received.

Ensuring links are developed and maintained across remaining year levels is a gradual process but as benefits in the program begin to be acknowledged, it is hoped that this goal will be achievable. First year students struggling with external demands and a competitive global workplace deserve a progressive, supportive and engaging first year experience.