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The Myth of the Teaching-Research Nexus

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Cover Page Footnote

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THE MYTH OF THE TEACHING-RESEARCH NEXUS

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I INTRODUCTION

University students are not often presented with assessable opportunities to discover new knowledge (new to the student) and to deliver it in a frame of analysis designed or decided upon by the student that will create the most value for them. Those rare opportunities are critical as they excite, motivate, and keep many students at university. But our strong view is that the modern, metric-based, audit-driven compliance of the contemporary university no longer allows this to happen, particularly in the teaching of core units of the law degree. With legal academics particularly resistant to change¹ and concerned that educationalist imperatives will only reduce space for research² there is no doubt that in research-led law schools, for the core units of the law degree, the teaching-research nexus can no longer exist. Research exercises like the Research Quality Framework³ and the Excellence in Research in Australia⁴ together with the inevitable consequences of this (such as the ranking of journals) has, in our view, with experience drawn from a number of institutions, created an individualistic, competitive, disunited workplace. It also divides and separates the senior management elite⁵ who have little connection with what is happening

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¹ Nick James, “‘How Dare You Tell Me How to Teach!’: Resistance to Educationalism Within Australian Law Schools” (2013) 36 *University of New South Wales Law Journal* 779, 799.

² Ibid, 804-5.

³ For a discussion of this see UNSW Business School, *Research Quality Framework (RQF)* <<https://www.business.unsw.edu.au/research/research-centres-institutions/society-heterodox-economists/resources/research-quality-framework>>.

⁴ See Australian Research Council, *Excellence in Research for Australia* (20 February 2017) <<http://www.arc.gov.au/excellence-research-australia>>.

⁵ Given the range of financial and administrative models that govern universities, it is not possible to precisely define what we mean by senior management elite, but we

at the coalface of their institution, from the disciplinary leaders who once were the senior management. All of this is evident in the move from smaller units such as schools where governance was traditionally an academic exercise, to the move to super faculties or divisions, managed by pro-vice chancellors/executive deans. Schools or departments are marginalised while policy is handed down from VC to DVC to PVC and discipline difference is merged into sameness.⁶

Students face what Bauman has called 'liquid modernity'⁷ or in the words of Giddens a 'runaway world'.⁸ Students need to construct new knowledge within great uncertainties and be confronted by new and continual challenges to the concept of citizen and state. Graduates need to deal with constant doctrinal change and increasingly complex engagements within different professions, systems, and overnight transformations in their basic tool, namely information. A capacity to critically enquire, to construct and reconstruct new interpretations and to question both assumptions and long-standing dogma becomes vital as does the capacity and creativity needed to match acquired knowledge that is rapidly dating. And it is often said that to meet this liquid modernity we need to have, or establish, a teaching-research nexus.

In this sense, we see research as the creation of new knowledge and by offering research opportunities and research-like activities to the students, we transfer this learning to the dynamics of the teaching environment. But in the modern university and in close to a century of combined experience at law schools at diverse institutions, we argue that it is now time to divorce the myth from the reality, and recognize that the modern higher education institution is a broad church. Instead of uniformly seeking to connect teaching and research, people should seek to move, or, in some cases, perhaps be moved, to areas where they can contribute the most, resulting increasingly in teaching-intensive and research-intensive positions alongside management and community engagement opportunities. This may well see divisions created within universities not along the lines of discipline expertise, but along activity. Arguably, in the future, teaching-intensive academics in two different disciplines may have more in common than a teaching-intensive and a research-intensive academic in the one discipline.

Our views, we respectfully suggest, are similar to those expressed by David Lloyd, a higher education administrator for over two decades, who questioned what he saw as the 'blind faith' in the idea that teaching

can attempt to describe it. It is the people that have compliance and governance responsibilities beyond the discipline of law, and who for the most part will not have substantial teaching or research roles. Their primary focus will be on the compliance and growth functions of the University as a whole.

⁶ See the comments by Justin Norrie, 'Collegiality is Dead in the Now Corporatised University', *The Conversation* (online), 23 February 2012 <<http://theconversation.com/collegiality-is-dead-in-the-new-corporatised-university-5539>>.

⁷ Zygmunt Bauman, *Liquid Modernity* (Polity Press, 2006).

⁸ Anthony Giddens, *Runaway World: How Globalisation is Reshaping Our Lives* (Profile Books, 1999).

and research complement each other,⁹ a faith in pursuit of Wilhelm von Humboldt's ideal of a common pursuit of knowledge by teacher and student.¹⁰ Lloyd suggests that the sheer number of undergraduates in the core units of degrees makes it unreasonable to expect academics to do both at the same time.¹¹ There is no reason to suspect that this does not apply to undergraduate law degrees as well as undergraduate degrees in the arts and sciences. He advocates, 'this wistful attachment to the teaching-research nexus must give way to an admission that, at the undergraduate level ... scholarship is more important than original research.'¹² For Lloyd, teaching and research require completely different skills: teaching needs to take students from high school to the edge of independent research capacity, whereas research needs funding to get the best minds to construct new knowledge and to be empowered to implement the ideas generated.¹³ He thought that doing both would only be possible at a few institutions and that to try and do both at every university would be a waste of resources. The question that must be answered is whether it is worthwhile to make the effort to incorporate research into teaching. Our view is no. We take these ideas about the use of publicly-funded resources to link with the research performance metrics of the modern university, and demonstrate how an attempt to connect research and teaching should no longer be made.

Lloyd's comments reflect a reassessment caused by the massive changes sweeping through the university sector globally and at a national level. Whether it is the massification of higher education,¹⁴ the commodification of learning, or a recognition of a new generation of students born of, and in, an information age; there is a demand for different types of delivery and experiences than in previous generations,¹⁵ with these changes being part of the break in the teaching-research nexus.¹⁶

With this context in mind, we structure our paper by first considering the teaching-research nexus and critique the voluminous literature on this topic. We then consider the fate of the neoliberal higher education model and what this has meant for research, collegiality, and teamwork within the modern university. We conclude with a consideration of what should then occur, or what might normatively

⁹ David Lloyd, 'Blind Faith in Teaching-Research Nexus', *The Australian* (Melbourne), 25 February 2009, 23.

¹⁰ Maarten Simons, "'Education Through Research" at European Universities: Notes on the Orientation of Academic Research' (2006) 40 *Journal of Philosophy of Education* 31.

¹¹ Lloyd, above n 9.

¹² Ibid.

¹³ Ibid.

¹⁴ Angela Brew, 'Teaching and Research: New Relationships and Their Implications for Inquiry-Based Teaching and Learning in Higher Education' (2003) 22 *Higher Education Research and Development* 3.

¹⁵ See the comments by Angela Brew, 'Imperatives and Challenges in Integrating Teaching and Research' (2010) 29 *Higher Education Research and Development* 139 who disagrees with this sentiment.

¹⁶ Ibid.

occur in higher education given the performance demands placed on the contemporary academic.

II IMPOSSIBLE TO DEFINE, DIFFICULT TO DESCRIBE — THE TEACHING-RESEARCH NEXUS

The connection between teaching and research is described in many different ways, and one of the problems when assessing the literature is understanding what exactly an author is referring to when discussing the teaching-research nexus.¹⁷ For some, it is not so much a singular relationship as describing many links between teaching and research.¹⁸ The links could include lecturers talking about their research in the classroom, or using a small research project as an assessment tool to make students undertake research. The definition preferred by the former Australian Learning and Teaching Council (ALTC) is broad, describing the many connections that can be made between teaching and research to benefit students and outcomes.¹⁹

In supporting the associations the ALTC make an assumption — which it acknowledged — that there is some relationship between the two within a university, and that the relationship is mutually beneficial.²⁰ Tight makes a similar assumption when examining the nexus. He considers that ‘it is, or should be, a strong relationship, forming the foundation stone of the higher education endeavour’.²¹ Other scholars support the assumption that it encourages and enables ‘deep learning’,²² or that it is critical for success in the ‘emerging information society’,²³ or that it allows for an attitude supporting ‘innovation and creative spirit’,²⁴ or provides for a more ‘durable’ education.²⁵ The Council of Australian Law Deans’ standards²⁶ also

¹⁷ Australian Learning and Teaching Council, *The Academic’s and Policy-Maker’s Guides to the Teaching-Research Nexus – A Suite of Resources for Enhancing Reflective Practice: Final Project Report* (Australian Teaching and Learning Council, 2008) 21.

¹⁸ Alan Jenkins, *A Guide to the Research Evidence on Teaching-Research Relations* (Higher Education Academy, 2004).

¹⁹ Australian Learning and Teaching Council above n 17.

²⁰ Ibid.

²¹ Malcolm Tight, ‘Examining the Research/Teaching Nexus’ (2016) 6 *European Journal of Higher Education* 293, 294.

²² Mick Healy, ‘Linking Research and Teaching: Exploring Disciplinary Spaces and the Role of Inquiry-Based Learning’ in R Barnett (ed), *Reshaping the University: New Relations Between Research, Scholarship and Teaching* (Open University Press, 2005) 67; Reva Berman Brown and Sean McCartney, ‘The Link Between Research and Teaching: Its Purpose and Implications’ (1998) 35 *Innovations in Education and Training International* 117.

²³ Alan Jenkins, ‘The Relationship Between Teaching and Research: Where Does Geography Stand and Deliver?’ (2000) 24 *Journal of Geography in Higher Education* 325.

²⁴ Jose R Casar, ‘Encouraging Students’ Attitude of Innovation in Research Universities’ (2000) 25 *European Journal of Engineering Education* 115.

²⁵ David Woodhouse, ‘Auditing Research and the Research/Teaching Nexus’ (1998) 33 *New Zealand Journal of Educational Studies* 39.

²⁶ Council of Australian Law Deans, *CALD Standards for Australian Law Schools* (17 November 2009) <<https://cald.asn.au/resources/education/>>.

point to a connection with standard eight requiring the law school to foster the relationship between teaching and research, and that this interaction be reflected in the curriculum.²⁷

Those who argue in favour of the nexus and the way in which it situated at a university often point to examples of how that connection is made. Illustrations can include the identification and dissemination of staff research into undergraduate teaching, using research techniques and tasks as an assessment tool, creating a culture of research that connects students and staff, as well as drawing on student activities to engage in evidence-based learning.²⁸ But these illustrations, we suggest, are the exception rather than the rule, particularly for those staff allocated the challenging roles of unit coordinators to large core units.

The ideas emanating from the scholarship of teaching and learning also inform, and perhaps in a rather circular fashion, seek to support the assumptions underpinning the teaching-research nexus and the types of activities cited as promoting the nexus. The concept of scholarship describes the role of the university in contemporary society and how these institutions should fulfil their role. In the words of Boyer, scholarship is when 'teaching both educates and entices future scholars'.²⁹ Scholarship describes an activity that is public, subject to critical review by other members of the community, and that these other members use and build upon that activity.³⁰ Therefore, the scholarship of teaching and learning is when academics ask themselves how to improve their teaching; it 'involves research on student learning, how it occurs, what it looks like, and how it can be deepened'.³¹ It includes an assessment by peers of how successful teaching strategies are³² and considers criteria for thinking about, and evaluating the scholarship of teaching, allowing for a form of review to take place.³³ Some suggest that many ordinary activities of lecturers are actions that involve scholarship of teaching and learning, such as the preparation of syllabuses, presentations about teaching techniques to colleagues, experimentation with new teaching methods, and publications about

²⁷ While it is beyond the scope of this paper to critique the standards, the point we would make is that if the faculty is research led, the capacity to achieve this connection in large core units simply does not exist for the staff responsible for those units.

²⁸ Tight, above n 21, 300 extracts a fuller list quoting from the University of Melbourne.

²⁹ Ernest L Boyer, *Scholarship Reconsidered: Priorities of the Professoriate* (Carnegie Foundation for the Advancement of Teaching, 1990).

³⁰ Lee Shulman and P Hutchings, *About the Scholarship of Teaching and Learning: The Pew Scholars National Fellowship Program* (Carnegie Foundation for the Advancement of Teaching, 1998).

³¹ Ibid.

³² Carolin Kreber, 'Conceptualizing the Scholarship of Teaching and Identifying Unresolved Issues: The Framework for this Volume' (2001) 86 *New Directions for Teaching and Learning* 1.

³³ Michael Theall and John A Centra, 'Assessing the Scholarship of Teaching: Valid Decisions from Valid Evidence' (2001) 86 *New Directions for Teaching and Learning* 31.

new teaching approaches.³⁴ The outcome is to see the activities within the classroom being part of this scholarship/research activity, and in the alternative to view student research as an important or essential learning outcome.

Perhaps more important is the notion of public scholarship, which offers a holistic way of thinking about academic work that integrates separate tasks like teaching and learning.³⁵ Public scholarship combines the domains, demonstrating how sharing work allows academics to discover how they can contribute to society through the ‘scholarly knowledge processes’.³⁶ The notion of public scholarship recognises that information cannot just flow from universities out into the wider world, but that it is only in its application that its full value to the community is revealed.³⁷ The Australian Teaching and Learning Council observes:

... as the importance of community engagement and knowledge transfer rise, there may be scope for giving serious consideration to approaches such as public scholarship as way of integrating teaching, research, community engagement and knowledge transfer.³⁸

What this evidence does is highlight the difficulties in developing a solid research framework to investigate the nexus.³⁹ There may be too much variation in how teaching and research are measured, or described, to permit comparison of the results of the various studies. As Visser-Wijnveen et al note, ‘one of the main problems in the discussion about the research-teaching nexus is that the term is used for many different kinds of activities in the university and that many different words are used for the same activity’.⁴⁰ In effect, while it may be described, it cannot be defined. Strangely, very few studies have used student learning to indicate the quality of teaching, despite the fact that this was used as a justification for the link.⁴¹ Often there was no assessment of specific learning processes, just an assumption that the link was valuable.⁴² There has also been a lack of consideration of the type of teaching used, instead, the focus has been on a more general teaching approach.

No doubt in response to such criticism, there has been movement in response. There has been more work describing what actually happens

³⁴ John M Braxton, William Luckey and Patricia Helland, ‘Institutionalizing a Broader View of Scholarship Through Boyer’s Four Domains’ (2002) 29(2) *ASHE-ERIC Higher Education Report* 1.

³⁵ Australian Learning and Teaching Council, above n 17.

³⁶ Judith Ramaley, ‘Embracing Civic Responsibility’ (2000) 52(7) *American Association for Higher Education Bulletin* 9.

³⁷ Australian Learning and Teaching Council, above n 17.

³⁸ Ibid.

³⁹ An Verburgh, Jan Elen and Sari Lindblom-Ylänn, ‘Investigating the Myth of the Relationship Between Teaching and Research in Higher Education: A Review of Empirical Research’ (2007) 26 *Studies in Philosophy and Education* 449, 461.

⁴⁰ Gerda J Visser-Wijnveen et al, ‘The Ideal Research-Teaching Nexus in the Eyes of Academics: Building Profiles’ (2010) 29 *Higher Education Research & Development* 195.

⁴¹ Verburgh, Elen and Lindblom-Ylänn, above n 39, 461-2.

⁴² Ibid.

in universities, the strategies used for linking teaching and research, and how it operates on a departmental and disciplinary level.⁴³ This view of the tertiary arena is becoming more sophisticated, with some arguing that contextual factors need to be taken into account when assessing the linkages between teaching and research.⁴⁴ They recognise how complicated it is to measure the relationship between these two functions which perhaps explains why quantitative studies have failed to identify explicit relationships existing between research performance and teaching performance.⁴⁵ It is certainly accepted that a fuller picture of the nexus will emerge if a broader conception of teaching is adopted that 'can encompass a multitude of learning processes that are part of knowledge construction'.⁴⁶ As Visser-Wijnveen et al observe, 'the nexus is complex, and its subtle, arcane aspects appear to outweigh the more concrete, explicit ones'.⁴⁷

Other approaches accept the diversity and variety of meanings and interpretation of the concept of research-teaching nexus and instead focus on the classification and analysis of various approaches to this nexus. The matrix⁴⁸ illustrates both the diversity in what can be meant by the research-teaching nexus as well as the different types of roles that teachers can be expected to play.

⁴³ Alan Jenkins and Mick Healey, *Institutional Strategies to Link Teaching and Research* (Higher Education Academy, 2005); Alan Jenkins, Mick Healey and Roger Zetter, *Linking Teaching and Research in Disciplines and Departments* (Higher Education Academy, 2007).

⁴⁴ Terry Wareham and Paul Trowler, 'Deconstructing and Reconstructing "The Teaching-Research Nexus": Lessons from Art and Design' (Paper presented at the All Ireland Society for Higher Education Conference, Maynooth, 30-31 August 2007); John Taylor, 'The Teaching-Research Nexus and the Importance of Context: A Comparative Study of England and Sweden' (2008) 38 *Compare: A Journal of Comparative and International Education* 53, 53.

⁴⁵ Ruth Kane, Susan Sandretto and Chris Heath, 'An Investigation into Excellent Tertiary Teaching: Emphasising Reflective Practice' (2004) 47 *Higher Education* 283, 298.

⁴⁶ Hugo Horta, Vincent Dautel and Francisco M Veloso, 'An Output Perspective on the Teaching-Research Nexus: An Analysis Focusing on the United States Higher Education System' (2012) 37 *Studies in Higher Education* 171, 183-4.

⁴⁷ Ruth Neumann, 'Perceptions of the Teaching-Research Nexus: A Framework for Analysis' (1992) 23 *Higher Education* 159.

⁴⁸ Visser-Wijnveen et al, n 40, 205.

Profiles of the teaching-research nexus

	Profiles				
Themes	Teach research results	Make research known	Show what it means to be a researcher	Help to conduct research	Provide research experience
Orientation	Towards teaching: academic knowledge; Towards research: reflection	Towards teaching: academic disposition and divulge research	Towards teaching: academic disposition	Towards teaching: academic disposition and researcher	Towards research: input of students; Towards teaching: train researcher
Approach	Learning about research: listening to researcher and literature reading; Inquiry learning: discussing	Inquiry learning: discussing and reporting; Learning about research: literature reading Own research content	Own research process	Own ongoing research	Own ongoing research
Teacher role	Expert	Motivator	Role model	Tutor	Guide

More recently, some researchers have adopted the view that teaching can be used to enhance research, rather than the more traditional focus that research informs the practice of teaching.⁴⁹

III BUT DOES THE CONNECTION EXIST?

While there has been a considerable effort made in trying to establish a connection, in reality there is a dearth of empirical evidence supporting the existence of a relationship between teaching and

⁴⁹ Tony Harland, 'Teaching to Enhance Research' (2016) 35 *Higher Education Research and Development* 461.

research.⁵⁰ Some have gone so far as to argue that the idea that the two are connected is nothing more than a fable, finding no evidence of either a positive or negative relationship between the two.⁵¹ For example, Ramsden and Moses found that despite the ‘passionate allegiance’ to the idea that teaching and research complement each other, there was no link between high research output and effective undergraduate teaching.⁵² If this is the case, then when universities assess their staff they must not take research performance to demonstrate teaching performance, and students must not be misled into thinking that scholarly prestige necessarily means excellent teaching.⁵³

Recently we have also seen the Grattan Institute⁵⁴ use data gathered from the Australasian Survey of Student Engagement (AUSSE) attempt to measure whether students are in an ‘effective learning environment’.⁵⁵ The Grattan Institute study compared the AUSSE results from University departments categorised as either ‘high-research’ or ‘low-research’ to determine if research output had an impact on the experience of students.⁵⁶ The evidence suggested there was ‘little reason to believe that teaching is improved when it is undertaken with research’, but also that also there was no negative correlation.⁵⁷ The evidence did not support the idea that students were more academically challenged in a high-research environment.⁵⁸ It concluded that the level of research ‘just doesn’t seem to systematically affect teacher quality in any way’.⁵⁹

⁵⁰ Mark Hughes, ‘The Mythology of Research and Teaching Relationships in Universities’ in Ronald Barnett (ed), *Reshaping the University: New Relations Between Research, Scholarship and Teaching* (Open University Press, 2005) 14.

⁵¹ John Hattie and H W Marsh, ‘The Relationship Between Research and Teaching: A Meta-Analysis’ (1996) 66 *Review of Educational Research* 507, 529. See also Angus Duff and Neil Marriott, ‘The Teaching-Research Gestalt: The Development of a Discipline-Based Scale’ (2017) 42 *Studies in Higher Education* 2406 – the authors note that faculty research can be both negative and positive in its relationship with teaching. See 2415-6 where the authors note both the positive and negative factors. Some of the negative factors that appear particularly applicable to the study of law included the tension between research and the professional curriculum; research dissonance with the curriculum, and the development of professional skills.

⁵² Paul Ramsden and Ingrid Moses, ‘Associations Between Research and Teaching in Australian Higher Education’ (1992) 23 *Higher Education* 273. For recent Australian based articles on the teaching-research nexus, see James Arvanitakis and Ingrid Mathews, ‘Bridging the Divides: An Interdisciplinary Perspective on the Teaching-Research Nexus and Community Engagement’ (2014) 35 *Adelaide Law Review* 35; Molly Townes O’Brien, ‘The Learning Journey: Please Take Me with You’ (2014) 35 *Adelaide Law Review* 23; Marina Nehme, ‘The Nexus Between Teaching and Research: Easier Said Than Done’ (2012) 22 *Legal Education Review* 241; Sarah Ailwood et al, ‘Connecting Research and Teaching: A Case Study from the School of Law, University of Canberra’ (2012) 22 *Legal Education Review* 317.

⁵³ Ramsden and Moses, above n 52.

⁵⁴ Itima Cherastidham, Julie Sonnemann and Andrew Norton, ‘The Teaching-Research Nexus in Higher Education’ (Background Paper, Grattan Institute, October 2013) 11.

⁵⁵ *Ibid.*

⁵⁶ *Ibid* 12-13.

⁵⁷ *Ibid* 3.

⁵⁸ *Ibid* 29.

⁵⁹ *Ibid* 3.

These quantitative studies are limited in their value. The AUSSE is a very blunt instrument for measuring the complexity of the teaching-research nexus. As Taylor observes in reference to different quantitative studies that also found no correlation between research and teaching quality, they do ‘not prove or disprove a relationship between teaching and research’ and they reveal ‘little or nothing about the nature of the relationship’.⁶⁰

IV WHY THIS SEARCH FOR A TEACHING-RESEARCH NEXUS CAN NOW STOP

In a modern research-led university, and particularly in research-led law schools, where performance is informed and dictated by quantitative research performance expectations, establishing or seeking a teaching-research nexus is not only extremely difficult, but for the modern academic with their performance controlled by the audit narrative of higher education, nigh on impossible. With the current university existing in the contemporary environment of metrics, appraisals, and rankings, these developments have led to a level of anxiety, compliance driven behaviour, silo-invoking mentality, and academics driven by research and/or teaching performance expectations, but not by both.⁶¹ It is the technocratic delivery of the needs of undergraduates that is now in demand, and even accepted by the students where vocational outcomes matter more than richer, deeper thinking skills.⁶² Creativity, innovation, and the contribution that one can make to society is forgotten in the name of what we think is unsustainable managerialism whereby universities are run along the lines of modern private corporations, but arguably where accountability is adherence to the whims or dictates of government agencies that are likely to be bearing the same curse and burden of compliance driven behaviour.

Further, our view is that this focus on compliance driven behaviour, and rejection of a connection between research and teaching is unlikely to change with the requirement of impact narratives now being asked of Australian law schools as part of the evolving research framework.⁶³ The necessity to explain and extrapolate how one’s research contributes to the ‘economy, society, environment and culture beyond the contribution to the academic’s [own profile]’⁶⁴ might hypothetically

⁶⁰ Taylor, above n 44, 54.

⁶¹ See the discussion of the stress and tension associated with the life of the modern academic by Dawn Bennett et al, ‘What is Required to Develop Career Pathways for Teaching Academics’ (2017) 75 *Higher Education* 271.

⁶² For example, many, if not all law schools today would operate some form of clinical, practical legal training within their programs. It is something now expected of law faculties by their students. For example, see the comments in Law Society of New South Wales, ‘Commission of Inquiry into the Future of Law and Innovation in the Profession’ (Report, Law Society of New South Wales, 2017) (FLIP Report) ch 6.

⁶³ For a discussion of this, see Australian Research Council, ‘Engagement and Impact Assessment Pilot 2017’ (Report, Australian Research Council, 2017) <<http://www.arc.gov.au/ei-pilot-overview>>.

⁶⁴ *Ibid* 3.

attract students to a research-led law school which connects and applies their work to the community. The reality, however, is that:

Impact capture as an academic exercise ... is frequently undermined in academic circles by a lack of consensus or mismatch between what academics and research funders and regulators respectively recognise and 'count' as impact and the extent to which an impact agenda is perceived by the former to be incompatible with established modes of academic practice and convention.⁶⁵

While it is theoretically possible that a requirement to demonstrate evidence of impact might well 'inure the progress of research'⁶⁶ the effect of this potentially emerging dictate is unlikely to change the thesis of what we assert. Furthermore, previous attempts to introduce a measure of impact within Australian law schools has been met with significant concern,⁶⁷ and it is suggested that the current iteration will be met with similar disdain. In addition, for the academic undertaking the research, the time taken to establish and find the bibliometrics associated with publication, as well as describing what the impact is vis-à-vis industry and whom the impact affected, will impose further demands on the academic profession and drive a broader wedge between teachers and researchers.⁶⁸

Another factor in our view that the journey of discovery for a connection can now be ended emanates from the work of Duff and Marriott.⁶⁹ While they note that the value of research to teaching can be identified, they expressly indicated the problems as:

lack of relevance of contemporary research to the curriculum; the different personal qualities required to succeed as a teacher or researcher; the necessity of developing professional skills rather than research skills in students; the technical content gaps that can be created by making a curriculum too research focused; and institutional focus on research at the expense of teaching. It is plausible that a similar gestalt may operate in other

⁶⁵ Richard Watermeyer, 'Issues in the Articulation of "Impact": The Responses of UK Academics to "Impact" as a New Measure of Research Performance' (2014) 39 *Studies in Higher Education* 359, 373.

⁶⁶ Ibid.

⁶⁷ For example, as noted by Kathy Bowrey, 'Audit Culture: Why Law Journals are Ranked and What Impact This Has on the Discipline of Law Today' (2013) 23 *Legal Education Review* 291, 297, '...concerns were raised about assessing impact with reference to "adoption" of research by end-users. Adoption of legal research was not considered a sound indicator of the quality of the research, but more related to political fit' (nb the author made this comment in the context of the research agenda adopted by the Howard Government 2003-7).

⁶⁸ Having said this however, the authors do concede that if the impact weighting becomes dominant in the mind of regulators, then the functional and instrumental education now demanded by students may well see students being attracted to institutions where the connection between research and teaching is made more strongly. Notwithstanding this, the non-linear nature of the impact of research will always make the measurement of impact difficult. As noted by Will J Grant and Paul Harris, 'The "Impact" of Research Carries Weight (but Ripples Matter More)' *The Conversation* (online), 4 May 2012 <<https://theconversation.com/the-impact-of-research-carries-weight-but-ripples-matter-more-6820>>.

⁶⁹ Duff and Marriott, above n 51.

disciplines, particularly where professional accreditation is to the fore, for example, ... law⁷⁰

Furthermore, James points out that legal academics' resistance to educationalism is 'frequently characterised by complaints about workload and lack of time: maintaining an identity as a researcher is so time-consuming that it is unfair and inappropriate for academics to also be expected to be teachers'.⁷¹ For some it is simply inconsistent with their identity as a researcher to be schooled in teaching practices and pedagogy.⁷²

Finally, the increasing emphasis and importance on skills such as communication, the capacity to obtain and maintain interpersonal relationships, self-awareness, resilience, and tolerance may also work against any teaching-research nexus.⁷³ These aspects, which are undoubtedly of significant importance to the modern workplace, and the contemporary graduate, are largely unrelated to the research expertise offered by current academics. These skills challenge very directly the current law curriculum, and its central tenet of doctrinal knowledge.⁷⁴ As noted earlier, this challenges the very identity that research-led academics will have of themselves.⁷⁵ With research performance expectations embedding a particular notion of self, the opportunity to flourish the development of skills of emotional intelligence seems remote. It is simply not possible to undertake the necessary curriculum design, particularly in core units where Priestley 11 dictates demand a certain outcome,⁷⁶ to encompass this.

⁷⁰ Ibid 2416. These same authors also undertake a study of the accountancy profession in the United Kingdom in 2012 and noted that in that discipline, research did not seem to influence, to any great extent, the teaching agenda. This was due to three factors, all of which the authors of this paper consider to be relevant to research-led law schools in Australia. This included the role of accreditation, funding constraints, and faculty resistance seeking to protect the space for research. Angus Duff and James Marriott, *Teaching and Research: Partners or Competitors?* (Institute of Chartered Accountants Scotland, 2012).

⁷¹ James, above n 1, 805.

⁷² See the comments by James, above n 1, 804-5.

⁷³ See Kate Galloway and Peter Jones, 'Guarding Our Identities: The Dilemma of Transformation in the Legal Academy' (2014) 14(1) *Queensland University of Technology Law Review* 15, 19 where the so-called 'soft skills' are described.

⁷⁴ Ibid 17, citing Dennis Pearce et al, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (Australian Government Publishing Service, 1987) (Pearce Report).

⁷⁵ As noted by Galloway and Jones, above n 73, 24: 'Yet the discussion so far has sought to identify the limits of the existing mental model of the legal academic. The challenge the academy faces to shift this mental model, lies in the centuries of tradition of the law and legal education, the fetishisation of tradition within the profession, and the very identity of practitioners and legal academics alike interwoven with these central tenets.'

⁷⁶ Ibid 18, where the authors comment on some of the criticism of Priestley 11, but also how the focus of Priestley on content leaves academics open to address differing teaching strategies. Our view is that while this is correct, the imposition of research performance expectations and rankings removes the time needed, or the incentive to connect research and teaching.

V THE MODERN AUSTRALIAN UNIVERSITY

In 1988, Australian academic life changed. No return is possible. The then Labor Minister for Employment, Education and Training, John Dawkins⁷⁷ began a process by which Colleges of Advanced Education became universities. Within four years, universities increased from 16 to 34, and currently, in 2018, there are 43 accredited universities in this country.⁷⁸ Introduced with good intent and with a rationale to improve the educational outcomes and the calibre of the Australian workforce, few who have been in the industry since that time would suggest that no mistakes have been made. Our own discipline of law was not immune to this change, and indeed, could be said to be an exemplar of what occurred. Formerly a degree considered elite and available to few, law became an option for many, with the combined degree with Arts or Business becoming the main mode of delivery. With a connection to the job market part of the rationale for change, law was a popular option for all new universities. As Thornton and Shannon note, ‘in addition to attracting well-credentialed students, university administrators believed that a law degree required few resources. Indeed, it was a longstanding myth that law could be “taught under a gum tree”.’⁷⁹

As to how this increase in student participation was to be funded, recourse was had to the 1960’s work of Friedman⁸⁰ and the development of a user-pays system (now HECS-HELP) which only requires repayment once a person earns above a certain threshold. The connection of vocation and education became the financial driver. For law, the effect was dramatic and ongoing. The market discourse and rise of credentialism in a degree where fees are comparatively higher than most other higher degree options has seen the introduction of truncated law offerings, consumer return to the stand-alone law degree, the introduction of fully online JD and LLB programs, and ‘revises the thought-to-be dormant positivistic myth that law is autonomous and disconnected from the social forces that animate it’.⁸¹ Many law schools arguably embraced this model, and indeed it may well be that as ‘early and thorough adopters of neoliberal approaches’,⁸² any retreat or opposition may well be viewed as hypocritical, at least by those law schools that adopted this strategy.

The increase in student numbers and the funding being tied to student enrolment and retention

⁷⁷ John S Dawkins, *Higher Education: A Policy Statement* (Australian Government Publishing Service, 1988).

⁷⁸ The list can be seen at Australian Education Network, *List of Universities in Australia* <<http://www.australianuniversities.com.au/list/>>.

⁷⁹ Margaret Thornton and Lucinda Shannon, ‘“Selling the Dream”: Law School Branding and the Illusion of Choice’ (2013) 23 *Legal Education Review* 249, 250.

⁸⁰ *Ibid* 251.

⁸¹ Margaret Thornton, ‘The Idea of the University and the Contemporary Legal Academy’ (2004) 26 *Sydney Law Review* 481, 483.

⁸² Mary Heath and Peter D Burdon, ‘Academic Resistance to the Neoliberal University’ (2013) 23 *Legal Education Review* 379, 380.

set in train an endless spiral and caused them to espouse once again the outdated but cheaper pedagogies [ie large group teaching, with this now being moved to an even cheaper cost alternative, online delivery] that had so ... [previously] been cast aside. Income generation and cost cutting became the primary focus of law deans everywhere.⁸³

The response for many law schools has been to ‘[simplify] course content, [adopt] multiple-choice assessment, or [remove] theoretical material’.⁸⁴ And while today, no law schools have failed, and perhaps some saved by the political cycle of Australian life and the positioning of regional universities in marginal seats,⁸⁵ the inevitable consequence of this market-driven neoliberal behaviour must at some stage, in the view of the authors, be the consolidation of law offerings. Indeed, with law schools restricted by the constraints of professional admission requirements, with law degrees sharing a commonality that is consistent with airline seats, it surely is only a matter of time before a dean, driven by the demands of finding ways to meet the salary cost of a department, will seek to share the delivery of a core unit through another provider. With, for example, the admission requirements of compulsory topic areas, such as the Priestley 11, leading to a similarity and sameness in respect of content Australia wide, there is little reason why this development could not occur now.

It is this neoliberal discourse⁸⁶ and imposition on the higher education sector of quantitative measures to provide a measure of performance that has led to the erosion, if not the wholly lost opportunity for the modern academic in a research institution to effectively link their research and their teaching. Whereas at one point all staff, irrespective of level or rank would contribute to the coalface of teaching and research, today that is no longer the case. Many, if not all enterprise bargaining agreements envisage research-only academics and teaching-intensive positions,⁸⁷ with specialist research themes and centres allowing for favoured treatment to be given to those engaged

⁸³ Thornton and Shannon, above n 79, 250.

⁸⁴ Heath and Burdon, above n 82.

⁸⁵ Thornton and Shannon, above n 79, 250.

⁸⁶ It should be noted that for some this neoliberal discourse can be counterbalanced by an expansive interpretation of one of the key graduate attributes of law students, this being critical thinking skills. Jeffrey McGee, Michael Guihot and Tim Connor, ‘Rediscovering Law Students as Citizens – Critical Thinking and the Public Value of Legal Education’ (2013) 38 *Alternative Law Journal* 77, 81 consider that what has occurred is that critical thinking and its conception has been ‘narrowed to be more consistent with the neoliberal turn in education’. They argue that an expansive interpretation of critical thinking, with a refocus on the concept of the student as citizen, and the relationship between law and society can be achieved within the current compliance framework, with this providing some sort of bulwark against the rise of the neoliberal educational system. Our response is that while this may be possible in theory, the rise of performance based metrics in research works directly against the interests of the coalface academic in undertaking this. Effort towards teaching will be minimised as the need to meet research targets becomes paramount in the mind of the academic, at least in research-led law schools.

⁸⁷ See, eg, Clauses 74.2 and 74.3 of the University of Tasmania – Staff Agreement 2013-2016 <<http://www.utas.edu.au/enterprise-bargaining>>.

directly in those areas.⁸⁸ When this is allied with very specific quantitative measures surrounding the performance of an academic with this ‘auditing [leading] to ongoing refinement of governance strategies which may include financial rewards for high achievers and disciplinary consequences for poor performers’, the capacity of a person to be both a servant of research and teaching and to excel at both is highly unlikely.⁸⁹ The academic meeting or exceeding the imposed pass mark by senior management elite for successful research becomes critical when seeking to access the more prosaic elements of academic life, such as study leave, promotion, and access to discretionary funding for travel or marking assistance. As every academic would be aware, there are very specific metrics that must be met in relation to research (such as number of publications, successful research grants, supervision of research higher degree students), with softer, less concrete measures used for teaching (for example, the development of a teaching philosophy or a scholarship direction).

What the imposition of these research metrics has done is to weaken the traditional scholarly, collegial values that many in the academy would hold dear. Some research metrics obviously focus on inputs, eg, grant monies received. And grant money tends to flow to senior academics with track records of success at attracting grants. The scholarship of academics not in this game is marginalised or devalued. But its effects are possibly even more insidious. Senior management through the imposition of these metrics have similarly allowed their performance to be equally judged by aspects such as a rise in the international university and discipline rankings that now permeate university life. The problem of this is encapsulated by Bowrey:

As managers become the new elite within universities, the authority and independence of members of the professoriate and other senior staff who were previously ‘involved’ in disciplinary based decision making recedes, their voices become corresponding muted and less influential.

Quantitative data allows for comparison so that a comprehensive audit can be conducted, extending from the individual staff member to a unit, group or department, to an entire school or faculty, which in turn feeds into a comparative ranking of each university and Australia worldwide. Public university budgets ... can then dedicate resources to support university research ‘strengths’ or concentrations of high-performers, through ‘letting go’ or re-assigning to ‘teaching-only’ posts the units, specialisations and staff that correspondingly appear to be ‘unproductive’ or ‘uncompetitive’.⁹⁰

So where are we at? Poor performance can now easily be identified. It is a failure to meet the metrics, and given those metrics are skewed significantly towards research, the capacity of a teaching-research nexus to be inculcated and embedded within the curriculum becomes remote. Those favoured by the research metrics more likely to have

⁸⁸ For example the University of Tasmania has five research themes: Data, Knowledge and Decisions; Environment, Resources and Sustainability; Better Health; Marine, Antarctic and Maritime; and Creativity, Culture and Society.

⁸⁹ Bowrey, above n 67, 292.

⁹⁰ Ibid 293.

significantly less teaching, have greater opportunity for conference and research travel, with a corresponding reduction in their availability to teach. In effect, those conducting the research will not be teaching, at least not to any great extent. And the damage is self-perpetuating—those with the time for research leading to a greater burden on those left teaching, with a consequential inability for the teaching-intensive academic to ever return into the seemingly higher value world of research. The opportunity for students to be connected with the top researchers diminished, if not eliminated.

The metrics impose ‘a web of subinfeudation [that] ensures that person is answerable to someone above while overseeing someone below. In this way, governmentality is entrenched and normalized.’⁹¹ The academic, the student, and the senior management elite have become drawn into a vortex where their interest is inward looking—their focus is on their own human capital. This, as Brown notes, in a time when ‘democracy in an era of enormously complex global constellations and powers requires people who are educated, thoughtful, and democratic in sensibility’.⁹²

The result of these drivers of performance is that a certain career path and method of work is endorsed. Shorter articles are to be preferred to longer articles; high maintenance higher degree students eschewed; and grant-funded research is favoured which entrenches seniority within the discipline as well as preferencing younger academics able to coattail on the threads of successful senior staff allied to favoured research centres. It ‘naturalise[s] the arbitrariness of the new order by requiring researchers to fall into line with the current rules of the assessment game’.⁹³ It further diminishes the link between the creation of new knowledge (research) and the teaching of existing knowledge to large groups of undergraduates seeking to maximise their return on their investment in their education. For those that still seek to hold true to traditional values of scholarly work produced in a collegial shared environment, the truth becomes stark. Research-active staff, ever mindful of their research performance obligations become increasingly disengaged with the plurality of the administration and community interaction imperatives of a university. While students and some law staff, particularly clinical staff, may be involved in social justice initiatives via internships or law clinics,⁹⁴ relations between staff and students within the department will become increasingly rare and isolated to those that advantage one’s research, with telecommuting contributing to an isolation of members of the faculty. The teaching–research nexus, so dependent on a link between the research-active staff and the undergraduate is lost, as well as a whole of division approach

⁹¹ Margaret Thornton, *Privatising the Public University: The Case of Law* (Routledge, 2011) 209, cited in Bowrey, above 67, 294.

⁹² Wendy Brown, *Undoing the Demos: Neoliberalism’s Stealth Revolution* (Zone Books, 2015) 199.

⁹³ Bowrey, above n 67, 310.

⁹⁴ See, eg, Murdoch University, *Southern Communities Advocacy Legal Education Service (SCALES)* <<http://www.murdoch.edu.au/School-of-Law/SCALES/>> and its focus on immigration law.

to the determination of internal matters. This fracturing is, of course, desirable to some. Without a unified voice from the coalface, those setting the direction can do so with impunity.

All of this has occurred against a backdrop of political reform beginning with the Liberal Government reforms of the Research Quality Framework (RQF)⁹⁵ and its more current iteration that was introduced by Labor, Excellence in Research in Australia (ERA).⁹⁶ And while academics would be near uniform in their view that these measures have contributed little to research outcomes, are inherently unreliable, contribute further to a decline in collegiality while leading to a rise in the silo-academic divorced from governance within the division, they remain. The people who deliver the classes which account for student and government funding are unable or unwilling to forestall or oppose the rise of audit led managerialism. As part of this process, and using our own discipline as an example, law academics were forced to submit to a ranking system of journals that was later discredited, but which still plays a significant role in the choices made by academics of where to publish.⁹⁷ Again, and despite this recognition of perfidiousness, in some schools law academics are financially incentivised to publish in certain journals with certain journals attracting a higher weighting in terms of meeting the research performance expectations.⁹⁸ In law, there is simply no defensible mechanism to identify the best journals, yet academics continue to work in silence with our performance driven by these rankings; any connections between teaching and research conveniently forgotten. Academics are now torn between seeking a teaching-intensive position, (with the numbers of teaching academics growing by some 339 per cent between 2007 and 2016 in Australia, where the majority of these are women at the lower levels of academia),⁹⁹ becoming research active within the frameworks led by management, or joining management itself and becoming part of the machinery of compliance. But at no point does this allow for a strong connection or link to be made between teaching and research. What it does produce is discipline strength in a particular teaching area losing its resonance in terms of research. Research quality is not determined by discipline knowledge, where the ultimate goal is grant funds acquired. As Svantesson et al note,

⁹⁵ For a discussion of this see UNSW Business School, above n 3.

⁹⁶ See Australian Research Council, above n 4.

⁹⁷ Noted in Bowrey, above n 67, 305.

⁹⁸ Recently the Council of Australian Law Deans released another paper on the ranking of journals, with this repeating the mantra that these are flawed. See Kathy Bowrey, 'A Report into Methodologies Underpinning Australian Law Journal Rankings' (Report, Council of Australian Law Deans, 8 February 2016).

⁹⁹ Bennett et al, above n 61, 280. These authors also note that as full time positions decrease 'academics are more at risk of involuntary unemployment, under-employment, and role transition ... They also face stress due to job uncertainty ... heavy workloads, and the erosion of workers' rights ...'. These authors consider that for teaching academics, what is needed is systematic change management processes, role models for promotion and the availability of career promotion opportunities. Human Resource departments have a critical role to play in this.

... despite their corruptibility and habitual negative impact, we recognise that people must be free to rank to their heart's content. The bigger question is what the rankings are used for and here the responsibility lies broader. Deans concerned with the welfare and long-term success of the faculties they work for must have the bravery to look beyond infertile, bureaucratic and ultimately unjust, proxies for quality in guiding their colleagues' scholarly efforts.¹⁰⁰

In summary, what this means for the teaching-research nexus is that it can no longer be viably enmeshed within a Faculty. Any attempt will be superficial as research academics seek to remove themselves from teaching, particularly in large core units, while those teaching these units, continually struggle to meet their research performance expectations. Disadvantage between academics will be entrenched and rewarded for those with a research profile. Collegiality within the one discipline will be replaced by new networks forged out of similar circumstance. The results of this trend are now becoming clear. Flexible learning will be the new buzz word, with this arguably a euphemism for lower-cost unit delivery. The market ethos that was discussed earlier will deliver a teaching environment that is cheaper, mass-produced, and more easily consumable by the buyer of that product. Innovation and creativity, the highest order learning skills will be ignored as the demand for student numbers and the public funding that comes with this become the imperative for the senior managers of the institution.¹⁰¹

And while our focus has been on the effect on the academic and its current inability to deliver a teaching-research nexus, the undergraduate market has brought into this corporatisation of university life with ease, perhaps as a result of the embrace of the market motif.¹⁰² Used to being consumers they adopt that theme with alacrity, more interested in the marks they receive, the opportunities for employment, and the credentials they get, than the outcomes of higher-order learning skills.¹⁰³ The credential creep that has bedevilled university employment and the workplace is encouraged — after all, it is the government and the consumer that is paying for this. What all of this does is minimise or remove the likelihood that a student can, in any meaningful way, contribute to, or be part of, a research agenda. Time simply does not permit it.

Our views no doubt, to some, seem unduly pessimistic and we do recognise that there are isolated instances of the successful conflation

¹⁰⁰ Dan Jerker B Svantesson, Jim Corkery, and Bernard McCabe, 'The Ghost of Rankings Past – The Lasting Harmful Impact of Journal Rankings, and What We Should Do Instead' (2014) 26 *Bond Law Review* 71, 84.

¹⁰¹ Which is contrary to the needs of the legal profession. See generally FLIP Report, above n 62.

¹⁰² As noted by Thornton, *Privatising the Public University: The Case of Law*, above n 91, 483: 'Because the market embrace has caused students to become 'customers' primarily interested in purchasing a product, preferably with a known 'brand name', they have become more interested in credentialism than the quality of the education they receive.'

¹⁰³ *Ibid.*

of teaching and research.¹⁰⁴ But on the whole the public face of universities is no longer as the providers of new discoveries, new inventions, or new knowledge (this now the purview of specialist research centres, some set within universities, some not, and often the private/public sector in partnership), but as deliverers of labour for an increasingly constricted employment market. The technocratic nature of what an academic can deliver equally matched by the consumer's expectations, with this leading to the decline of what we can expect from a university and the possible rise of goliaths such as Google, Facebook, and Apple¹⁰⁵ to fill the void left by the universities, or to work in partnership with universities to find the people with the capabilities they need to satisfy the creative demands that they constantly face.

VI CONCLUSION

The teaching-research nexus is dead.¹⁰⁶ While deliberately provocative, we contend that in the modern research-led university with quantitative research performance indicators and a corruptible journal ranking list that is nevertheless endorsed, academics in law divisions, particularly those in core units, and where resource limitations are evident, can no longer afford to connect their research to their teaching. Research-active staff will increasingly seek to reduce their teaching and remove themselves from any responsibility for the core teaching obligations. What has led to this position? The subinfeudation of

¹⁰⁴ See, eg, Mike Neary, 'Student as Producer and the Politics of Abolition: Making a New Form of Dissident Institution?' (2016) 7(5) *Critical Education* 1, 16. Neary champions the identification of the student as producer, with this done explicitly as a way to respond to the current universities, 'overwhelmed by the principles of neoliberalism'. He articulates a model which would see research-like activities as the norm and which would result in the academic efforts of the institutions incorporating directly the outputs and efforts of undergraduates alongside the academic staff. He also notes, at 2, that this is a direct response to the current consumerist culture existing in Universities.

Another example where the teaching-research nexus has been established can be seen in the work of Paul Maharg. For example in Paul Maharg, 'Sea-Change' (2011) 18 *International Journal of the Legal Profession* 139, Maharg advocates a model involving active learning through simulated authentic transactions which encompass deep learning, process learning and the express incorporation of ethical standards. This design model can incorporate the student as a co-researcher. He also notes, at 153, the resource limitations of this type of model. His extensive work on this area can be seen on his webpage: Paul Maharg, *Publications* <<http://paulmaharg.com/publications/>>.

¹⁰⁵ Ananya Roy, 'Facebook, Apple and Google Could Open Own Universities Under Higher Education Reforms', *International Business Times* (online), 16 May 2016 <<http://www.ibtimes.co.uk/facebook-apple-google-could-open-own-universities-under-higher-education-reforms-1560248>>.

¹⁰⁶ An alternate view, as noted by one of the referees and also recognised by the authors, is that the teaching-research nexus never existed in any meaningful way. The suggestion might be made that the teaching-research nexus was used as a means to justify the public funding of universities through the students that enrol, and that the majority of academics never sought to make their research directly applicable or connectable with the students in their classroom.

professorial and disciplinary control, replaced by senior management answerable to their university Councils for financial solvency, and dictated to by political machinations that led to a shopper's culture when deciding what and where to study university. University life has changed — we doubt for the better, but the bed has been made, and while some will criticise our position as based in nostalgia, we confidently suggest that the vast majority of legal academics are in agreement. The current position is clearly unsustainable, not only for research but in terms of the collective vision that we should have for students entering the most demanding of education sectors.¹⁰⁷ Higher education in Australia, a multi-billion exercise is worse for these outcomes, and Australia is collectively poorer because of it. Only considerable political will, driven by community angst can lead to change. Sadly, it is not something we expect to see.

¹⁰⁷ Much has been written on the unsustainability of the current business model of universities. For a discussion of the past and future trends in this area, see Glen D Murphy, Sheona A Thomson and Susan M Savage, 'Back to the Future – A Retrospective Analysis of University Business Models' (Paper presented at the Australian and New Zealand Academy of Management Conference: Reshaping Management for Impact, Sydney, 3-5 December 2014).