MA99 EDUCATION

Legal Studies: Practice Paper 1

01

NSW LEGAL STUDIES 11-12 SYLLABUS 2025

FOR HSC 2028 AND LATER

1. Instructions

A complete Year 11 yearly examination on all four focus areas, built in the shape of the new HSC Legal Studies examination: 15 marks of multiple choice, 35 marks of short answer with one 15 mark item, and two 25-mark extended responses, each with a choice of two questions. Complete it under timed conditions before reading the marking guidance.

General instructions

- Reading time: 10 minutes.
- Working time: 3 hours.
- Write using black or blue pen.
- Attempt all questions. In Section III, answer ONE alternative, (a) or (b), in each of Questions 22 and 23.
- Where a question names a case "you have studied", any real case earns the marks. The marking guidance uses the cases in the MA99 Topic Notes.

Total marks: 100

Section I, 15 marks. Attempt Questions 1 to 15. Allow about 20 minutes. Section II, 35 marks. Attempt Questions 16 to 21. Allow about 70 minutes for this section. Section III, 50 marks. Attempt Questions 22 and 23. Allow about 90 minutes for this section.

The section times are the ones NESA suggests for the HSC paper this one copies (NESA, sample HSC examination materials, July 2026). Three hours for 100 marks is 1.8 minutes a mark. Section II gets slightly more than its share, because the 15-mark item needs more time.



Figure 1 · How the 100 marks are split. Each extended response is a quarter of the paper, so give each one its full 45 minutes.

Real law in this paper

Every Act, case, report and statistic in this paper is real and cited the way a Band 6 answer cites it. One short scenario is not real: it is labelled Hypothetical in its first word and must never be cited as a case.

2. Section I · Multiple choice

Section I

15 marks. Attempt Questions 1 to 15. Allow about 20 minutes for this section. Select the alternative A, B, C or D that best answers the question.

2.1 Section I answer grid

Circle the letter on the question, then copy it here.

Q	1	2	3	4	5	6	7	8
Q	**9**	**10**	**11**	**12**	**13**	**14**	**15**	

Question 1

1 MARK

Which classification of the Crimes Act 1900 (NSW) is correct?

A Private, civil, common law
B Public, criminal, statute law
C Public, criminal, common law
D International, binding, statute law

Question 2

1 MARK

Section 24 of the Australian Courts Act 1828 (Imp) is significant in the development of the common law in Australia because it

A ended all appeals from Australian courts to the Privy Council
B recognised the traditional laws and customs of Aboriginal Peoples
C fixed the English laws in force on 25 July 1828 as the law applying in New South Wales
D established the High Court of Australia as the final court of appeal

Question 3

1 MARK

A person sues for $400,000 in damages for negligence. Which is the LOWEST court in the NSW hierarchy with jurisdiction to hear the claim?

A The District Court
B The Local Court
C The Supreme Court
D The NSW Civil and Administrative Tribunal

Question 4

1 MARK

In R v Kirby; Ex parte Boilermakers' Society of Australia (1956) 94 CLR 254, the High Court held that

A a Commonwealth law prevails over an inconsistent state law
B the Constitution implies a freedom of political communication
C the external affairs power supports laws that implement a treaty
D federal judicial power can be exercised only by courts under Chapter III of the Constitution

Question 5

1 MARK

The 1967 referendum is often given as the clearest example of the double majority being reached. Which statement about it is correct?

A It was carried with a national majority, but in only four of the six states
B It was decided by the High Court after the vote was challenged
C It was carried in all six states, with 90.77 per cent voting Yes nationally
D It created an Aboriginal and Torres Strait Islander Voice to Parliament

Question 6

1 MARK

The Treaty on the Prohibition of Nuclear Weapons (adopted 2017) followed a campaign by which non-government organisation, founded in Melbourne in 2007?

A Amnesty International

B The International Campaign to Abolish Nuclear Weapons

C The International Committee of the Red Cross

D Pacific Island Students Fighting Climate Change

Question 7

1 MARK

Which of the following is an EXPRESS right in the Australian Constitution?

A Freedom of political communication

B The right to legal representation at public expense in a serious criminal trial

C The right to privacy

D Trial by jury for an indictable offence against a law of the Commonwealth

Question 8

1 MARK

In Royall v The Queen (1991) 172 CLR 378, the victim fell from a high window while escaping a violent attack. The High Court held that a jury could find the attack was a "substantial or significant cause" of her death. Which element of a crime does this illustrate?

A Causation

B Actus reus

C Mens rea

D The standard of proof

Question 9

1 MARK

In most NCAT matters each party pays its own legal costs (Civil and Administrative Tribunal Act 2013 (NSW) s 60). Which criterion for effectiveness does this feature most directly support?

A Enforceability of legal measures

B Application of the rule against bias

C Accessibility of the law

D Capacity to create binding precedent

Question 10

1 MARK

Which royal commission answered the question "why?" with the word "greed", describing "the pursuit of short term profit at the expense of basic standards of honesty"?

A The Royal Commission into the Robodebt Scheme

B The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (report 2018)

C The Royal Commission into Aboriginal Deaths in Custody (report 1991)

D The Royal Commission into National Natural Disaster Arrangements

Question 11

1 MARK

The Restoring Territory Rights Act 2022 (Cth) removed the 1997 ban on the territories making assisted dying laws. In NESA's terms, this is an example of

A a judicial method: identifying an outdated law

B an executive method: a ministerial direction

C an informal method of change by an advocacy group

D a legislative method: repealing an existing law

Question 12

1 MARK

When a land claim under the Aboriginal Land Rights Act 1983 (NSW) succeeds, the Local Aboriginal Land Council receives

A freehold title to the land
B a determination of native title
C a pastoral lease over the land
D a right to negotiate with miners only

Question 13

1 MARK

The Voluntary Assisted Dying Bill 2021 (NSW) was introduced by Alex Greenwich, the independent member for Sydney. It was therefore

A a government bill
B delegated legislation
C a private member's bill
D a money bill

Question 14

1 MARK

Under the Young Offenders Act 1997 (NSW), a youth justice conference

A is a hearing before a judge and a jury of twelve
B brings together the young person, family, the victim, police and a convenor to agree on an outcome plan
C is a sentencing circle in which Elders decide the penalty for an adult offender
D is a complaint process run by the eSafety Commissioner

Question 15

1 MARK

In Wotton v Queensland (No 5) [2016] FCA 1457, the Federal Court found that Queensland police, in their response to a 2004 death in custody on Palm Island, had breached

A the Racial Discrimination Act 1975 (Cth)
B the UN Declaration on the Rights of Indigenous Peoples
C the Anti-Discrimination Act 1977 (NSW)
D the Native Title Act 1993 (Cth)

3. Section II · Short answer

Section II

35 marks. Attempt Questions 16 to 21. Allow about 70 minutes for this section. Answer Questions 16 to 20 in the spaces provided. Write Question 21, the 15-mark item, in a separate writing booklet. Use legal terms precisely and cite legislation and cases by name and year.

Question 16

3 MARKS

Distinguish between the division of powers and the separation of powers in Australia.

Question 17

4 MARKS

(a) Outline how Country, Peoples, Cultural Practices and kinship are interconnected, and how this underpins Customary Lore. (2 marks)

(b) Describe ONE responsibility in caring for Country, using an example. (2 marks)

Question 18

4 MARKS

Stimulus · a council decision

Hypothetical. A local council officer cancels Sam's licence to run a food van after a neighbour complains about noise. Sam is not told about the complaint and is not asked for a response before the decision is made. The officer who makes the decision is the neighbour's brother.

(a) Identify TWO ways in which the council's decision breached the principles of procedural fairness. (2 marks)

(b) Explain why procedural fairness matters to the rule of law. Refer to a real case. (2 marks)

Question 19

4 MARKS

(a) Outline ONE reason for change that led to the Voluntary Assisted Dying Act 2022 (NSW). (2 marks)

(b) Distinguish between ONE informal driver and ONE formal driver of that reform. (2 marks)

Question 20

5 MARKS

Stimulus · Maranguka justice reinvestment, Bourke, NSW

MEASURE, 2017 AGAINST 2016	2016	2017	CHANGE
Police recorded domestic violence incidents	360	279	23 per cent fewer
Juvenile charges for the top five offence categories	91	56	38 per cent fewer
Juvenile bail breaches	70	51	?
Year 12 student retention	35 per cent	66 per cent	up 31 points

KPMG estimated a gross economic impact of $3.1 million in 2017, about five times the operating cost of $0.6 million.

Source: KPMG, Maranguka Justice Reinvestment Project: Impact Assessment, 27 November 2018.

(a) Calculate the percentage fall in juvenile bail breaches between 2016 and 2017. Show your working. (1 mark)

(b) Using the stimulus and ONE other piece of evidence, assess the effectiveness of justice reinvestment as an alternative approach to justice for young people. (4 marks)

Question 21

15 MARKS

Stimulus · three sources on one punch violence and the criminal law

Source A. After the death of Thomas Kelly in Kings Cross in July 2012, the Crimes and Other Legislation Amendment (Assault and Intoxication) Act 2014 (NSW), passed on 30 January 2014, added a new offence of assault causing death to the Crimes Act 1900 (NSW) (s 25A), with an 8-year mandatory minimum sentence where the offender was intoxicated (s 25B).

Source B. In one punch manslaughter cases in NSW from 1998 to 2013, the median non-parole period was 3 years 6 months (J Quilter, International Journal for Crime, Justice and Social Democracy, 2017). In November 2013 Kieran Loveridge received a non-parole period of 4 years for the manslaughter of Thomas Kelly.

Source C. NESA's teaching advice wants students to understand why individual rights for suspects and the accused matter so much in criminal law, given the imbalance of power and resources between the individual and the state. (Adapted from NESA, Legal Studies 11-12 Syllabus (2025), Disputes under the law, teaching advice)

Using the sources and your own knowledge, evaluate the extent to which the criminal law balances the rights of the accused with the interests of the community. In your answer, refer to a criminal case you have studied.

Write your response in a separate writing booklet.

4. Section III · Extended response

Section III

50 marks. Attempt Questions 22 and 23. Allow about 90 minutes for this section: about 45 minutes for each question. Answer each question in a separate writing booklet. In each question, answer EITHER part (a) OR part (b). Your answer will be marked on how well you: demonstrate knowledge and understanding relevant to the question; use relevant legal information, including legislation, cases and other evidence; evaluate the effectiveness of the law using criteria; and present a sustained, logical and cohesive response.

Question 22

25 MARKS

Changing the law

Answer EITHER part (a) OR part (b).

(a) Assess the role of Aboriginal Peoples' initiatives and policy review as drivers of change in recognising land rights in NSW and native title.

OR

(b) Evaluate the extent to which the Voluntary Assisted Dying Act 2022 (NSW) balances the autonomy of individuals with the protection of vulnerable people.

Write your response in a separate writing booklet.

Question 23

25 MARKS

Experiences with the law

Answer EITHER part (a) OR part (b).

(a) Assess the extent to which the law recognises the evolving capacity of young people.

OR

(b) Evaluate the effectiveness of alternative approaches to justice in achieving justice for Aboriginal and Torres Strait Islander Peoples.

Write your response in a separate writing booklet.

End of paper.

5. Marking guidance

Mark the paper only after sitting it under time. An accurate mark identifies which paragraph to rewrite.

> Mark Section I first. Two minutes tells you which focus area to reread before you mark the rest.

Section I · Answer key

One mark each. Every distractor is a common student error, so a lost mark identifies a distinction not yet made.

Q	ANSWER	WHY THE KEY IS RIGHT, AND THE ERROR BEHIND EACH OTHER OPTION
1	B	The Act is enforced by the state against offenders (public), defines crimes (criminal) and was made by Parliament (statute). (A) is the opposite on every count. (C) gets the source wrong: an Act is never common law. (D) confuses domestic with international law.
2	C	Section 24 fixed the laws of England as at 25 July 1828 as the law of the colony, so far as it could be applied there. (A) Privy Council appeals ended in stages, the last under the Australia Act 1986. (B) Traditional laws were ignored until Mabo (No 2) (1992). (D) The High Court was created by the Constitution (s 71) and sat from 1903.
3	A	The District Court hears civil claims up to $1.25 million; the Local Court only up to $100,000. (B) is the error of treating every claim as small. (C) The Supreme Court could hear it, but it is not the lowest court with jurisdiction. (D) NCAT is a tribunal, not a court, so it is not part of the court hierarchy the question asks about.
4	D	Boilermakers held that federal judicial power belongs only to Chapter III courts. (A) is s 109, applied in the Tasmanian Dam case (1983). (B) is ACTV (1992) and Lange (1997). (C) is the Tasmanian Dam case.
5	C	Carried in all six states with 90.77 per cent Yes; it let the Commonwealth legislate for Aboriginal people under s 51(xxvi) and removed s 127. (A) Four states would have been enough, but it won all six. (B) No court decides a referendum. (D) The Voice proposal was defeated on 14 October 2023 with 39.94 per cent Yes.
6	B	ICAN was founded in Melbourne on 23 April 2007, campaigned for the Treaty (adopted 7 July 2017) and won the 2017 Nobel Peace Prize. (A) Amnesty (1961) monitors human rights. (C) The Red Cross is a humanitarian organisation, not the Melbourne campaign founded in 2007. (D) The Pacific students' group began the climate advisory opinion campaign, not this treaty.
7	D	Section 80 expressly guarantees trial by jury on indictment for Commonwealth offences. (A) is implied, not express (Lange, 1997). (B) There is no such right: Dietrich (1992) allows a serious trial to be stayed if the accused is unrepresented through no fault of their own. (C) Privacy is protected by statute, not the Constitution.
8	A	The question is whether the attack caused the death, which is causation. (B) The actus reus was the attack, not in dispute. (C) Mens rea is the state of mind. (D) The standard of proof is how sure the jury must be, not an element.
9	C	Costs are the main barrier to using the law, so removing the risk of paying the other side's costs makes NCAT accessible. (A) Enforceability comes from NCAT's power to make binding orders, not from its cost rule. (B) The rule against bias concerns the decision-maker's impartiality. (D) Tribunals do not create binding precedent.
10	B	Commissioner Hayne's interim report, 28 September 2018. (A) Robodebt was "a crude and cruel mechanism" (report, 7 July 2023). (C) RCIADIC found "glaring deficiencies" in the standard of care (1991). (D) The disaster arrangements report (28 October 2020) is about bushfires.
11	D	Parliament passed an Act removing an earlier Act's ban: repeal is NESA's example of a legislative method. (A) No court decided it. (B) A ministerial direction is made under an existing Act. (C) Advocacy may have driven it, but the method of change was Parliament's.
12	A	A successful ALRA claim transfers freehold title to the LALC. (B) confuses land rights with native title, the commonest error in the focus area. (C) A pastoral lease is a Crown grant, not a land rights outcome. (D) The right to negotiate is a native title right under the Native Title Act 1993 (Cth).
13	C	A bill introduced by a member who is not a minister is a private member's bill. (A) A government bill is introduced by a minister. (B) Delegated legislation is made under an Act, not passed as a bill. (D) A money bill raises or spends money.
14	B	A conference brings the people affected together to agree an outcome plan; if it is completed, no further action is taken. (A) Children's Court matters have no jury. (C) Circle sentencing is for Aboriginal adult offenders in the Local Court. (D) eSafety handles cyberbullying and the social media minimum age.

Q	ANSWER	WHY THE KEY IS RIGHT, AND THE ERROR BEHIND EACH OTHER OPTION
15	A	Mortimer J found breaches of the RDA; the class action settled for $30 million with an apology in May 2018. (B) UNDRIP is a declaration and cannot be breached in an Australian court. (C) is a NSW Act and the events were in Queensland. (D) Native title was not in issue.

The key is balanced: four each of A, B and C, three of D.

Section II · Criteria and sample answers

Each part shows how the marks are awarded, then a sample answer that earns them all. Equivalent real evidence earns the same marks.

QUESTION 16 · 3 MARKS

- 3 marks: clearly distinguishes the two, showing what each divides, with a relevant example of each.
- 2 marks: describes both with limited distinction, or distinguishes without examples.
- 1 mark: describes one of them.

Sample answer. The division of powers splits law-making power between the Commonwealth and the states: some powers are exclusive (customs duties, s 90), many are concurrent (the list in s 51) and the rest are residual (s 107), with s 109 making the Commonwealth law prevail in a clash, as in the Tasmanian Dam case (1983). The separation of powers, by contrast, splits power between the three arms of one government: the legislature (Chapter I), the executive (Chapter II) and the judiciary (Chapter III). In Boilermakers (1956) the High Court held that federal judicial power belongs only to Chapter III courts. The division is between levels of government; the separation is between functions within a government.

> "Whereas" or "by contrast" is the word that turns two descriptions into a distinction.

QUESTION 17 (A) · 2 MARKS

- 2 marks: outlines how the four elements depend on one another.
- 1 mark: describes one or two elements separately.

Sample answer. Customary Lore comes from Country, which includes land, waters, sky and the spiritual meaning of places. The Peoples who belong to a particular Country hold its Lore; kinship places each person in relation to others and to Country and sets who must teach or care for whom; and Cultural Practices such as ceremony, song and story carry the Lore between generations. Because they depend on each other, removing people from Country or children from kin breaks the transmission of Lore.

QUESTION 17 (B) · 2 MARKS

- 2 marks: describes one responsibility with a real example.
- 1 mark: names a responsibility.

Sample answer. Caring for Country includes land management through cultural burning: small, cool fires at the right season reduce fuel and renew plants. Its value is now recognised by Australian law and government: the Royal Commission into National Natural Disaster Arrangements (report, 28 October 2020) gave a chapter to Indigenous land and fire management, and 84 Indigenous Protected Areas cover 87 million hectares of land and 5 million hectares of sea (DCCEEW, 2026).

QUESTION 18 (A) · 2 MARKS

- 1 mark for each breach identified: no fair hearing (Sam was not told of the complaint or given a chance to respond); bias (the decision-maker is the complainant's brother, so a fair-minded observer might think he is not impartial).

QUESTION 18 (B) · 2 MARKS

- 2 marks: explains the link to the rule of law with a real case.
- 1 mark: a general link, or a case without explanation.

Sample answer. The rule of law requires that government power is used according to law, and procedural fairness is part of that law: a person must know the case against them and answer it before an impartial decision-maker. In Kioa v West (1985) 159 CLR 550 the High Court held that a deportation decision was flawed because it relied on an adverse claim Mr Kioa was

never given the chance to answer. Without that protection, officials could decide against people on information they never see.

QUESTION 19 (A) · 2 MARKS

- 2 marks: outlines one reason in NESA's terms, with evidence.
- 1 mark: names a reason.

Sample answer. Recognising changing values. Community values had moved towards respecting a dying person's choices, and the Act's principles say that "a person's autonomy, including autonomy in relation to end of life choices, should be respected". By 2022 every other state had passed a law, with schemes in force from Victoria (19 June 2019) to South Australia (31 January 2023), so NSW law no longer matched the values it was meant to reflect.

QUESTION 19 (B) · 2 MARKS

- 2 marks: distinguishes the two with a real example of each.
- 1 mark: one correct example, or a general distinction.

Sample answer. An informal driver has no legal power and works by persuasion, such as Dying with Dignity NSW, which campaigned "for nearly 50 years" for the law. A formal driver is part of the legal system, such as the Legislative Council's Standing Committee on Law and Justice, which inquired into the 2021 bill and held a public hearing on 13 December 2021.

QUESTION 20 (A) · 1 MARK

Worked solution

Fall = 70 less 51 = 19 breaches

Percentage fall = 19 ÷ 70 × 100 = 27.1 per cent, about 27 per cent

QUESTION 20 (B) · 4 MARKS

- 4 marks: a clear judgement, using the stimulus and one further piece of evidence, with a limitation weighed.
- 3 marks: assesses with evidence but limited weighing.
- 1 to 2 marks: describes justice reinvestment or the stimulus.

Sample answer. Justice reinvestment redirects funding from prisons to community programs that address the causes of crime. Judged by achievement of justice, Maranguka in Bourke was effective in its first measured year: juvenile charges for the top five offence categories fell 38 per cent (91 to 56) and Year 12 retention rose from 35 to 66 per cent, at about one fifth of its estimated economic benefit (KPMG, 2018). It is also community led, with the Bourke Aboriginal community and Just Reinvest NSW deciding priorities, which builds trust a court cannot. Its limitation is the evidence: KPMG compared two years in one town, so the result may not last or transfer. And it has not changed the wider picture: First Nations young people were 21 times as likely as non-Indigenous young people to be in detention across Australia in June 2025 (AIHW). Effective where it operates, but too small and too new to judge as a statewide answer.

Common error

Copying the table into your answer. The marks are for what the numbers show and what they cannot show.

QUESTION 21 · 15 MARKS

MARKS	CRITERIA
13 to 15	Makes a sustained, well-reasoned judgement about the extent to which the criminal law balances the rights of the accused and the interests of the community. Integrates the sources with detailed knowledge of a real criminal case and relevant law. Weighs both sides using criteria. Precise legal terminology in a cohesive response.
10 to 12	Makes a judgement supported by the sources and a real case. Covers both rights and community interests, perhaps unevenly. Sound use of terms.
7 to 9	Explains rights of the accused or community interests with some reference to the sources or a case. Judgement implied.

MARKS	CRITERIA
4 to 6	Describes criminal law procedures or a case with limited link to the question.
1 to 3	General statements about crime or punishment.

Indicative content.

- **The imbalance (Source C).** The state has police, forensic evidence and prosecutors; the accused has, at most, a lawyer. So the law gives the accused the presumption of innocence and puts the burden on the prosecution to prove each element beyond reasonable doubt (Woolmington v DPP [1935] AC 462; Evidence Act 1995 (NSW) s 141).
- **Rights protected in Loveridge.** Kieran Loveridge was charged with murder after punching Thomas Kelly on 7 July 2012. The prosecution could prove the act and causation (CCTV, medical evidence) but not the mens rea for murder, so the DPP accepted a plea to manslaughter (June 2013). He was represented throughout, received a 25 per cent discount for his plea, and was sentenced by an independent judge with written reasons ([2013] NSWSC 1638). Representation matters: Dietrich v The Queen (1992) 177 CLR 292.
- **Community interests protected.** The DPP's right of appeal let the Court of Criminal Appeal hold that general deterrence had not been given sufficient weight and raise the total non-parole period from 5 years 2 months to 10 years 2 months ([2014] NSWCCA 120, 4 July 2014). A heavier sentence reflected community standards, which had stopped tolerating alcohol fuelled violence.
- **Source B, read critically.** The first sentence was above the 1998 to 2013 median of 3 years 6 months, so the judge was consistent with past practice. The appeal served community standards at the cost of consistency with earlier offenders.
- **Source A, read critically.** Parliament's s 25B mandatory minimum serves the community (deterrence, denunciation) but removes judicial discretion, which is how a court fits a sentence to the offender. Equality before the law requires like cases to be treated alike, and unlike cases differently.
- **Further evidence.** Absolute liability for drug driving (R v Narouz [2024] NSWCCA 14) removes even the defence of honest and reasonable mistake, putting road safety ahead of the accused's state of mind. The jury (Jury Act 1977 (NSW) s 55F) gives the community a voice in contested trials.
- **Judgement.** For example: the process protects the accused well; the sentencing outcome, after appeal and after Parliament's response, has moved towards the community's interest, at some cost to discretion and consistency.

Sample opening paragraph

The criminal law balances the rights of the accused and the interests of the community well in its process, but less evenly in its punishments, where the balance has moved towards the community since 2014. Because the state holds overwhelming power and resources against the individual (Source C), the law protects the accused through the presumption of innocence, the high standard of proof and the right to representation, and in R v Loveridge every one of those rights was respected. The community's interest was then protected by appeal: the Court of Criminal Appeal almost doubled Loveridge's total non-parole period to 10 years 2 months ([2014] NSWCCA 120). Parliament's 8-year mandatory minimum (Source A) shows the cost of that shift, because it removes the discretion that lets judges treat unlike offenders differently.

What separates 13 from 9. A judgement of extent in the first sentence. Every source used and questioned, not quoted. Both sides of the balance, each with evidence, and a reason one side outweighs the other.

Section III · Extended responses

Both questions use the same criteria. Each alternative has its own indicative content and model plan; the sample paragraphs show the standard.

MARKS	CRITERIA FOR QUESTIONS 22 AND 23
21 to 25	Demonstrates extensive knowledge and understanding of the focus area relevant to the question. Makes a well-reasoned judgement against relevant criteria, sustained throughout. Integrates detailed, accurate evidence: legislation, cases, reports and statistics, dated and sourced. Accounts for different perspectives. Presents a sustained, logical and cohesive response using precise legal terminology.
16 to 20	Demonstrates thorough knowledge and understanding. Makes a judgement against criteria, supported by relevant evidence. Accounts for some perspectives. Presents a logical and cohesive response using appropriate legal terminology.

MARKS	CRITERIA FOR QUESTIONS 22 AND 23
11 to 15	Demonstrates sound knowledge and understanding. Makes some judgement, or a judgement that is implied. Uses some relevant evidence. Presents an organised response using some legal terminology.
6 to 10	Demonstrates limited knowledge. Describes rather than evaluates. Uses limited or general evidence.
1 to 5	Makes general or limited points relevant to the question.

QUESTION 22 (A) · DRIVERS OF LAND RIGHTS AND NATIVE TITLE

Indicative content.

- **Aboriginal Peoples' initiatives.** The Yirrkala bark petitions (1963), which led to Milirrpum v Nabalco (1971); the Gurindji walk-off at Wave Hill (23 August 1966), with land handed back on 16 August 1975; the Aboriginal Tent Embassy (26 January 1972); the Black Theatre conference in Redfern (October 1977), where more than 200 representatives formed a non-statutory NSW Aboriginal Land Council, which lodged about 10 land claims from 1977 to 1981; Eddie Koiki Mabo and four other plaintiffs lodging their case in May 1982.
- **Policy review.** The Woodward Royal Commission (1973 to 1974), which led to the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth); the Keane committee (set up November 1978, first report August 1980), whose recommendations the Aboriginal Land Rights Act 1983 (NSW) largely reflected; ALRC Report 126 (2015, 30 recommendations); A Way Forward (October 2021) after Juukan Gorge; ALRC Report 144 (tabled 24 June 2026, 86 recommendations).
- **How they worked together.** Initiatives created the demand and the test cases; formal processes converted them into law: the ALRA (proclaimed 10 June 1983), Mabo (No 2) (3 June 1992), the Native Title Act 1993 (Cth).
- **Limits of the drivers.** Neither can change the law alone. Policy reviews depend on government acting. In 2026, NSWALC's march of more than 700 people, petition and complaint to the Australian Human Rights Commission did not stop the Crown Land Management Amendment (Statutory Review) Bill 2026 passing on 16 September 2026. Outcomes remain limited: only 0.2 per cent of NSW returned and about 43,000 to 44,000 claims undetermined (NSWALC, September 2026).
- **Judgement.** For example: Aboriginal Peoples' initiatives were the decisive driver, because every major step began with them; policy review shaped the form of the law, but its influence has been weaker where government was unwilling.

Sample paragraph

Aboriginal Peoples' initiatives were the most important driver of land rights in NSW, because they created the demand that a parliamentary review then turned into a model for legislation. In October 1977 more than 200 Aboriginal representatives met at the Black Theatre in Redfern, formed a non-statutory NSW Aboriginal Land Council, which lodged about 10 claims by 1981 with a government that had no law to decide them (NSWALC, Our History). In November 1978 the NSW Government set up the Keane select committee, whose first report in August 1980 recommended land councils, claims over Crown land and funding from 7.5 per cent of land tax. The Aboriginal Land Rights Act 1983 (NSW) reflected most of those recommendations. Judged by responsiveness of the law, the two drivers were effective together: the initiative created the pressure, and the review gave Parliament something it could enact.

QUESTION 22 (B) · THE VAD ACT: AUTONOMY AND PROTECTION

Indicative content.

- **Autonomy.** The principles respect "autonomy, including autonomy in relation to end of life choices". Eligibility (s 16(1)): an adult with an advanced, progressive condition likely to cause death within 6 months (12 if neurodegenerative), causing suffering "that cannot be relieved in a way the person considers tolerable". The choice is used: 2,295 first requests and 1,028 deaths after accessing VAD in 2024-25, 839 (81.6 per cent) by practitioner administration (NSW Voluntary Assisted Dying Board, 2024-25 Annual Report).
- **Protection.** Decision-making capacity and voluntariness; three requests and two independent assessments; witnesses who cannot benefit (s 44); a health care worker may not initiate a discussion about VAD unless they also give the information the Act requires, such as a medical practitioner explaining treatment and palliative care options (s 10); inducing a request is an offence; the Board approves every substance authority. The safeguards operate: 175 of 2,146 people (8.2 per cent) were found ineligible at the first assessment.

- **Where the balance is contested.** The capacity rule protects but excludes people with advanced dementia, even with an earlier written wish. Conscientious objection by practitioners and facilities protects their rights but can force a transfer near death (Part 5). After Carr v Attorney-General (Cth) [2023] FCA 1500, telehealth risks a Commonwealth offence, which limits autonomy for regional patients without adding protection.
- **Perspectives.** Dying with Dignity NSW and Go Gentle Australia (autonomy); AMA (NSW), whose submission said the issue "is one for society and government" and sought amendments; opponents concerned about pressure on vulnerable people, whose arguments shaped the safeguards. The bill passed on conscience votes: 52 to 32 in the Assembly (26 November 2021), 23 to 15 in the Council (19 May 2022).
- **Judgement.** For example: the Act strikes the balance well for people who keep capacity and can see a practitioner in person; the remaining gaps limit autonomy more than they increase protection.

Sample paragraph

Judged by protection of individual rights, the Act's safeguards protect vulnerable people without blocking access for those it was written for. Every person must make three separate requests and pass two independent assessments, and the Voluntary Assisted Dying Board must approve each substance authority. These safeguards are not formalities: in 2024-25, 175 of the 2,146 people who had a first assessment, or 8.2 per cent, were found ineligible (NSW Voluntary Assisted Dying Board, 2024-25 Annual Report). Yet 1,028 people died after accessing the scheme in the same year, so protection has not defeated autonomy. The balance is weaker at the edges: because of Carr v Attorney-General (Cth) [2023] FCA 1500, a consultation by telehealth risks a Commonwealth offence, which reduces the autonomy of people far from a practitioner and adds no protection at all.

QUESTION 23 (A) · EVOLVING CAPACITY OF YOUNG PEOPLE

Indicative content.

- **The concept.** Evolving capacity (after NESA): the growing ability of children and young people, as they develop, to make reasoned decisions for themselves. UNCRC arts 5 and 12 (ratified by Australia 17 December 1990).
- **Where the law recognises it individually.** Gillick v West Norfolk and Wisbech Area Health Authority [1986] AC 112, adopted in Marion's case (1992) 175 CLR 218: a child can consent to treatment if they understand it. Children's Court principles include a right to be heard (Children (Criminal Proceedings) Act 1987 (NSW) s 6). Doli incapax for 10 to 13-year-olds (RP v The Queen [2016] HCA 53).
- **Where it uses fixed ages.** Minimum age of criminal responsibility 10 (CCPA s 5); treatment with the young person's own consent from 14 (Minors (Property and Contracts) Act 1970 (NSW) s 49); social media accounts from 16 (from 10 December 2025); adult rights at 18.
- **The 2026 change.** The Children (Criminal Proceedings) and Young Offenders Legislation Amendment Act 2025 (NSW), passed 27 November 2025, put doli incapax into s 5 from 1 March 2026 and lets a court find it rebutted on the facts of the offence alone. The Government cited conviction rates falling from 76 per cent (2015-16) to 16 per cent (2022-23); the Justice and Equity Centre said "more children are churned through the system" (18 November 2025).
- **Comparison.** The ACT's age is 14 (1 July 2025) and Victoria's 12 (30 September 2025); the Northern Territory went back to 10 (October 2024); the UN Committee on the Rights of the Child urged at least 14 (General Comment No 24, 2019).
- **Judgement.** For example: the law recognises evolving capacity well in civil and medical decisions, where capacity widens a child's rights, and least in criminal law, where it is used to protect, and where NSW has recently narrowed it.

Sample paragraph

The law recognises evolving capacity most fully where it expands a young person's rights. In Gillick [1986] AC 112 the House of Lords held that a child under 16 can consent to medical treatment if they fully understand what is proposed, and the High Court adopted that test in Marion's case (1992). The test is individual: it asks what this child understands, not how old the child is. NSW statute adds a fixed line: a practitioner who treats a young person of 14 or over with that young person's consent is protected (Minors (Property and Contracts) Act 1970 (NSW) s 49). Judged by protection of individual rights, this combination works, because the fixed age gives certainty to doctors and the common law test protects a mature child below it.

QUESTION 23 (B) · ALTERNATIVE APPROACHES FOR ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

Indicative content.

- **Circle sentencing** (Local Court, from Nowra in February 2002): participants 9.3 percentage points less likely to be imprisoned, 3.9 points less likely to reoffend within 12 months and 55 days slower to reoffend (BOCSAR, Crime and Justice Bulletin 226, April 2020), with BOCSAR's caution that support networks may explain part of the effect.
- **The Youth Koori Court** (Parramatta 2015, Surry Hills 2019, Dubbo 24 March 2023): 5.9 percentage points fewer Juvenile Control Orders, without adverse impact on reoffending (BOCSAR, Crime and Justice Bulletin 248, April 2022).
- **The Walama List** (District Court): Elders and Respected Persons advise the judge; a Walama Case Plan addresses underlying needs.
- **Justice reinvestment.** Maranguka, Bourke: community led, showing self-determination in practice (KPMG, 2018).
- **Limits.** Each is available only in some places and, for courts, only after a guilty plea or finding. Outcomes at scale are worsening: Closing the Gap Target 10, adults in prison, 1,925.4 per 100,000 (2019) to 2,500.2 (2025), assessed as worsening; Target 11, young people in detention, assessed as no change (Productivity Commission, 2026). Aboriginal and Torres Strait Islander people were 37 per cent of adult prisoners at 30 June 2025 (ABS) against about 3.2 per cent of the population.
- **Judgement.** For example: effective for those who reach them, measured by BOCSAR; not yet effective for the group as a whole, because they are too few to move the totals.

Sample paragraph

Judged by achievement of justice, circle sentencing is one of the most effective alternative approaches in NSW for the people who reach it. An Aboriginal offender is sentenced by a judicial officer sitting with Elders and other respected Aboriginal community members, so Elders' authority and knowledge enter a process that was once used to control Aboriginal people. BOCSAR found participants were 9.3 percentage points less likely to receive a prison sentence and 3.9 points less likely to reoffend within 12 months (Crime and Justice Bulletin 226, 2020). Its reach is the problem. It operates only in some Local Courts and only after a guilty plea or finding, and over the same years the adult imprisonment rate rose from 1,925.4 to 2,500.2 per 100,000 (Productivity Commission, 2026). A process can succeed for individuals while the system it sits in fails the group.

What separates 21 from 15, in either question.

- A judgement in the first paragraph, against a named criterion, that the whole answer argues.
- Evidence with a date and source in every paragraph, and at least one figure the marker can check.
- A second perspective, reported as evidence, not as your opinion.
- A limitation that the conclusion weighs, rather than a list of strengths followed by "however".

What this paper covers

FOCUS AREA	SEC I	SEC II	SEC III	TOTAL
Investigating the law	7	11	0	18
Disputes under the law	3	15	0	18
Changing the law	3	4	25	32
Experiences with the law	2	5	25	32
Whole paper	15	35	50	100

Practice Papers 2 and 3 shift the weight: Paper 2 puts its extended responses on Investigating the law and Disputes under the law, and Paper 3 on Investigating the law and Experiences with the law. Across the set every focus area carries at least one 15 or 25-mark item.

Sources behind the marking guidance

Legislation from the NSW Legislation and Federal Register of Legislation websites; judgments from AustLII and the courts' sites; NSW Voluntary Assisted Dying Board, 2024-25 Annual Report; BOCSAR Crime and Justice Bulletins 226 (2020) and 248 (2022); KPMG, Maranguka Impact Assessment (2018); AIHW, Youth justice in Australia 2024-25 (2026); ABS, Prisoners in Australia, 2025; Productivity Commission, Closing the Gap dashboard (2026); NSWALC, Our History and media releases (September 2026); ALRC Reports 126 (2015) and 144 (2026); DCCEEW, Indigenous Protected Areas (2026). All current as at October 2026.

Attempt record

Come back every few weeks and date it. Improvement in a written subject is invisible from the inside, which is why students who are getting better so often believe they are not.

DATE	MARK OUT OF 100	THE ONE THING TO FIX NEXT TIME

Fill one row every time you sit the paper. The pattern you are looking for only shows up across attempts, not inside one.

About this resource

MA99 EDUCATION

Scope

NSW Legal Studies, Year 11. Written to the NSW Legal Studies 11-12 Syllabus 2025, all Year 11 focus areas, for students sitting the HSC in 2028 and later years. Written to the new syllabus, taught in Year 11 from 2027. Cases and legislation are real and cited as at October 2026; check for later changes before relying on them.

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