MA99 EDUCATION

Changing the law: Summary 03

NSW LEGAL STUDIES 11-12 SYLLABUS 2025 FOR HSC 2028 AND LATER

Every Act, case and figure is dated and sourced, so you can quote it as written. Read it the week before an assessment.

1. The focus area on one page

CONTENT POINT	KEY POINT	EVIDENCE
Reasons for change	Six, in NESA's words: changing values; relevance; technology; international standards; outdated laws; needs of individuals, groups or society	Marriage Amendment Act 2017 (Cth) after 61.6 per cent Yes; social media minimum age of 16 (Cth, 2024); RDA 1975 and Mabo (No 1)
Ways to influence change	Activism, advocacy, public opinion, investigations, findings and recommendations	Wave Hill 1966; Dying with Dignity NSW; Voice referendum 60.06 per cent No (2023); ALRC Report 144, 86 recommendations (2026)
Informal methods	Individuals, advocacy groups, the media. They persuade; they cannot change the law	Eddie Mabo, 1982; Go Gentle Australia, 2016; NSWALC on media coverage of land claims, 2026
Formal methods	Legislative process, judicial decisions, law reform commissions, royal commissions, inquiries	Keane committee 1978 to 81; Woodward Royal Commission 1973 to 74; NSWLRC and ALRC
Legislative methods	Introduction of bills, amendments, repeal	VAD Bill 2021 (private member's bill); Native Title Amendment Act 1998; Restoring Territory Rights Act 2022
Executive methods	Political will, parliamentary debate, ministerial directions	Conscience vote on VAD (2021); 10 Point Plan (1997); Crown Lands Minister decides ALRA claims
Judicial methods	Interpreting statutes, creating precedents, identifying outdated laws	Berrima [2016] HCA 50; Mabo (No 2) [1992] HCA 23; terra nullius; Carr [2023] FCA 1500
Outcomes	Benefits and limitations, including unintended consequences; weigh them against NESA's criteria	Rights of others, cost, loopholes, enforceability
Case study 1	Two systems: NSW land rights (compensation, LALC claims on Crown land) and native title (recognition of surviving rights)	ALRA 1983 (NSW); Mabo 1992; NTA 1993; Wik 1996; NTAA 1998
Case study 2	VAD: a terminally ill adult's lawful choice, with safeguards	VAD Act 2022 (NSW): assent 27 May 2022, in force 28 November 2023

2. Case study 1: land rights in NSW and native title

NSW land rights: the Aboriginal Land Rights Act 1983 (NSW)

Drivers. Black Theatre conference, Redfern, October 1977: over 200 representatives, a non-statutory NSW Aboriginal Land Council, about 10 claims lodged 1977 to 1981. Keane select committee set up November 1978; first report August 1980 recommended land rights and 7.5 per cent of land tax (NSWALC, Our History).

Process. Bill introduced 24 March 1983 by Minister Frank Walker; Act commenced 10 June 1983.

What it does. Preamble: land "progressively reduced without compensation". Purposes (s 3): land rights, land councils, vesting land, funds, community benefit schemes. NSWALC plus Local Aboriginal Land Councils (two tier since December 2006). Claims over "claimable Crown lands" (s 36): not lawfully used or occupied; not needed for an essential public purpose or as residential land; not under a registered native title claim or positive determination. Crown Lands Minister decides; appeal to the Land and Environment Court; freehold title if granted. Land tax funding 1984 to 1998: $537 million, $268.5 million into the Statutory Account; self-funding since (NSWALC).

Impact. No proof of connection needed; freehold; an economic base. But about 43,000 to 44,000 claims undetermined and 0.2 per cent of NSW returned (NSWALC, 15 and 16 September 2026). Berrima [2016] HCA 50: land the State still occupies is not claimable. The Crown Land Management Amendment (Statutory Review) Bill 2026 passed on 16 September 2026 over NSWALC's opposition.

NATIVE TITLE	EVIDENCE
Drivers: Aboriginal Peoples' initiatives	Yirrkala bark petitions 1963; Wave Hill walk-off 23 August 1966 (handback 16 August 1975); Tent Embassy 26 January 1972; Mabo plaintiffs, May 1982
Drivers: policy review	Woodward Royal Commission 1973 to 74; ALRC Report 126 (2015, 30 recommendations); A Way Forward (October 2021, Juukan Gorge); ALRC Report 144 (tabled 24 June 2026, 86 recommendations)
Outcomes: benefits	674 determinations, 546 positive, 1,534 ILUAs (NNTT, 10 April 2026); Barkandji [2015] FCA 604 in western NSW; compensation (2019, 2025)
Outcomes: limitations	Extinguishment by freehold; burden of proof (Yorta Yorta); time and cost; the future acts regime "fails to provide native title holders with two fundamental protections" (ALRC President, June 2026)

Beyond native title. Treaties: Victoria's Statewide Treaty signed and assented to 13 November 2025, in effect 12 December 2025; NSW has a Minister for Aboriginal Affairs and Treaty. Representation: Voice referendum 14 October 2023, 60.06 per cent No (NSW 58.96). Cultural preservation: Juukan Gorge, May 2020.

Native title: the cases and Acts in order

Milirrpum v Nabalco (1971) 17 FLR 141. Blackburn J: the common law does not recognise communal native title.

Mabo v Queensland (No 1) (1988). Qld Coast Islands Declaratory Act 1985 ineffective: inconsistent with the Racial Discrimination Act 1975 (Cth).

Mabo v Queensland (No 2) [1992] HCA 23; (1992) 175 CLR 1. 3 June 1992, 6:1 (Dawson J dissenting). Terra nullius rejected; Meriam people's native title over Mer recognised; extinguished by valid inconsistent grants.

Native Title Act 1993 (Cth). Assent 24 December 1993; in force 1 January 1994. Objects (s 3): recognise and protect native title; standards for future dealings; a mechanism to determine claims; validate past acts. Native title defined (s 223): traditional laws and customs; connection; recognised by the common law. NNTT; right to negotiate; compensation.

Wik Peoples v Queensland. Federal Court [1996] FCA 39; 63 FCR 450; 134 ALR 637 (Drummond J, 29 January 1996): the leases extinguished native title. High Court [1996] HCA 40; (1996) 187 CLR 1 (23 December 1996, 4:3): pastoral leases did not necessarily extinguish it; coexistence, with the pastoralist's rights prevailing if inconsistent.

Native Title Amendment Act 1998 (Cth). Assent 27 July 1998; main parts from 30 September 1998. The 10 Point Plan: confirmed extinguishment by some tenures, a registration test, a narrower right to negotiate, the ILUA framework.

Yorta Yorta [2002] HCA 58. Claimants must prove laws and customs acknowledged and observed substantially without interruption since sovereignty.

Northern Territory v Griffiths [2019] HCA 7. 13 March 2019. First High Court compensation assessment: 50 per cent of freehold value plus simple interest, and $1.3 million for cultural loss.

Commonwealth v Yunupingu [2025] HCA 6. 12 March 2025. Territory laws are subject to the just terms guarantee, so compensation can be sought.

3. Case study 2: the Voluntary Assisted Dying Act 2022 (NSW)

The Act in three paragraphs

Eligibility (s 16(1)). Adult; citizen, permanent resident or 3 years' residence; 12 months ordinarily resident in NSW (the Board may exempt); a condition that is advanced, progressive and will cause death within 6 months (12 if neurodegenerative) and causes suffering that cannot be relieved in a way the person considers tolerable; decision-making capacity; voluntary, without pressure or duress; an enduring request.

Process. First request; first assessment; independent consulting assessment; written declaration before two eligible witnesses (s 44); final request after the designated period (ends 5 days after the first request, unless death or loss of capacity is likely sooner); final review; the Board issues a substance authority; administration decision.

Safeguards. Health care workers must not initiate a VAD discussion unless a medical practitioner also explains standard treatment and palliative care (s 10); inducing a request is an offence; conscientious objection allowed but no obstruction; Part 5 access rules for residential facilities.

ELEMENT	EVIDENCE
Reasons	Changing values: autonomy "in relation to end of life choices" (principles); needs of people whose suffering "cannot be relieved"; NSW the last state (Vic 19 June 2019; WA 1 July 2021; Tas 23 October 2022; Qld 1 January 2023; SA 31 January 2023)
Informal drivers	Dying with Dignity NSW ("nearly 50 years"); Go Gentle Australia (2016, Andrew Denton); AMA (NSW): "one for society and government", sought amendments; opponents shaped the safeguards
Formal drivers	VAD Bill 2017 (Trevor Khan MLC) lost 20 to 19 in the Council, 16 November 2017; LC Standing Committee on Law and Justice inquiry: hearings December 2021, report 22 February 2022
Legislative process	Alex Greenwich's private member's bill: introduced 14 October 2021; Assembly 52 to 32 (26 November 2021); Council 23 to 15 with amendments (19 May 2022); assent 27 May 2022, Act No 17; s 2: in force 18 months after assent (28 November 2023)

ELEMENT	EVIDENCE
Executive process	Conscience votes; Perrottet and Minns both voted against; NSW Health: Care Navigator Service, Pharmacy Service, Board (Chair Professor Jenni Millbank)
Judicial process	Carr v Attorney-General (Cth) [2023] FCA 1500 (Abraham J, 30 November 2023): "suicide" in Criminal Code ss 474.29A and 474.29B includes VAD, so telehealth risks a federal offence
Benefits (2024-25)	2,295 first requests; 2,146 first assessments (175 ineligible); 1,599 substance authorities, 0 refused; 1,028 deaths (839 by practitioner, 81.6 per cent); 87.6 per cent of those assessed receiving palliative care (1,879 of 2,146); 71.4 per cent cancer
Limitations	Telehealth ban; facility objection and transfers; the capacity rule excludes advanced dementia; take up more likely male (54.1 per cent) and in cities; statutory review report pending as of October 2026

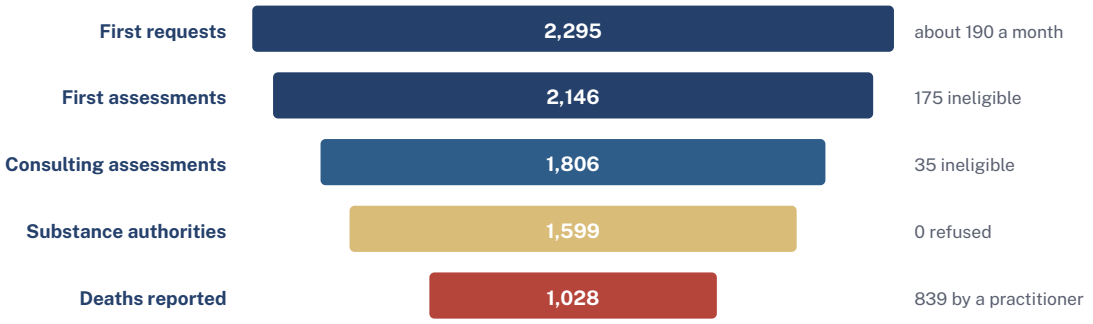


Figure 1 · The VAD funnel, NSW, 1 July 2024 to 30 June 2025. Source: NSW Voluntary Assisted Dying Board, 2024-25 Annual Report.

4. Methods: the moves for each question type

Recipes

Explain a reason, driver or process (3 to 6 marks). Name it in NESA's words; give the real example with its year; say how it caused or shaped the change ("because", "so"); link it to the reform.

Distinguish two processes (4 marks). One sentence of difference with "whereas"; an example of each; one further difference (scope, timing, who can start it, who has the last word).

Assess or evaluate a reform (8 to 25 marks). Judgement first, against a named criterion from NESA's list. Benefits with figures and dates; limitations with figures and dates; weigh them; say why the judgement holds and when it would not.

Use stimulus. Quote one figure from it exactly, interpret it ("this shows"), then bring in evidence the stimulus does not give you.

VERB	WHAT A MARKER WANTS
Identify	Recognise and name
Outline	The main features, briefly
Describe	Characteristics and features
Explain	Cause and effect: how and why
Distinguish	How two things differ, using "whereas"
Discuss	Points for and against, then the balance
Assess	A judgement of value or outcome, with evidence
Evaluate	A judgement against a named criterion

NESA's criteria for effectiveness. Accessibility of the law; achievement of justice; application of the rule of law; capacity to meet society's needs; capacity to uphold community standards; capacity to uphold the interests of justice; enforceability of legal measures; need for law reform; protection of individual rights; resource efficiency; responsiveness of the law.

5. Common errors

COMMON ERROR	FIX
Writing a driver when asked for a reason	A reason is **why**; a driver is **who or what pushed**
"The media changed the law"	The media is a driver. Only Parliament, the courts or the executive change the law
Parliamentary debate filed under legislative methods	NESA lists it under **executive** methods
"Mabo gave Aboriginal people their land back"	It recognised native title where it survived; freehold extinguishes it
Mixing up land rights and native title	ALRA: LALCs claim Crown land as compensation, no proof of connection. Native title: Traditional Owners prove continuing connection
Citing only the Federal Court in Wik	NESA's citation is the Federal Court; the High Court ([1996] HCA 40) reversed it on pastoral leases
Arguing whether VAD is morally right	Judge the law's effectiveness against criteria; report perspectives as evidence
"Overall the reform was partly effective"	Say which side outweighs the other, by which criterion, and why

6. Checklist

- ☐ I can name NESA's six reasons and give an Act for each.
- ☐ I can match activism, advocacy, public opinion, investigations, findings and recommendations to real examples.
- ☐ I can name formal drivers at both levels: NSWLRC, ALRC, ICAC, the Ombudsmen, AHRC, royal commissions, parliamentary committees.
- ☐ I can give NESA's examples of legislative, executive and judicial methods.
- ☐ I can explain what the ALRA does, who claims, what land, and why only 0.2 per cent of NSW has been returned.
- ☐ I can trace Milirrpum, Mabo (No 1), Mabo (No 2), the NTA, Wik, the 1998 amendments and Yorta Yorta in order.
- ☐ I can give two benefits and two limitations of native title with figures.
- ☐ I can state the VAD eligibility criteria and four safeguards.
- ☐ I can give the VAD vote figures and dates from introduction to commencement.
- ☐ I can quote three figures from the VAD Board's 2024-25 report.
- ☐ I can judge either reform against two of NESA's criteria in one paragraph.

> Two case studies, four elements, one judgement. Everything else is evidence.

About this resource

MA99 EDUCATION

Scope

NSW Legal Studies, Year 11. Written to the NSW Legal Studies 11-12 Syllabus 2025, Changing the law, 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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Changing the law: Practice Questions

03

NSW LEGAL STUDIES 11-12 SYLLABUS 2025 FOR HSC 2028 AND LATER

1. Instructions

Seventy five marks in total: ten multiple choice, forty marks of short answer including a 15-mark stimulus item, and one 25 mark extended response. That is the shape of a Year 11 Legal Studies examination, built entirely on Changing the law. Complete it under timed conditions before reading the back of the document.

How to run this

Give yourself 2 hours 10 minutes for the whole set, on paper, with no notes. Or split it: Sections I and II in 85 minutes, Section III in 45 minutes on another day.

Mark it yourself against the guidance at the back, then write one sentence naming the single change that would have gained the most marks. Make that change next time. Make one change per attempt.

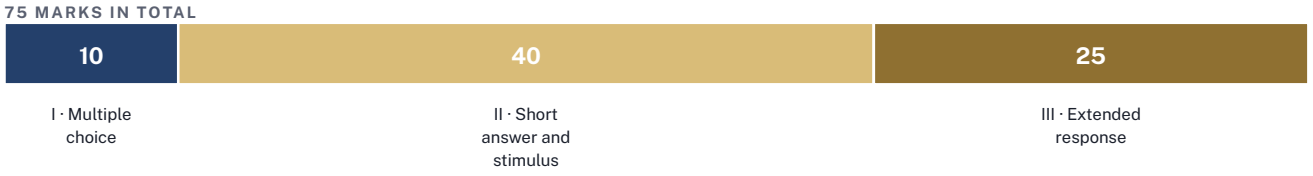


Figure 1 · How the 75 marks are split across the sections. Your time should follow the same split, about a minute and three quarters a mark.

The law in this set

Every Act, case, report and statistic in this booklet is real, cited and current as at October 2026. The two case studies are the mandatory one, **land rights in NSW and native title**, and the **Voluntary Assisted Dying Act 2022 (NSW)**. Where a question says "a law reform you have studied", you may use your own second case study; the marking guidance uses VAD.

FOUNDATION Section I tests one idea per item. Read every option before you choose.

STANDARD Section II uses real stimulus. Match your detail to the marks.

2. Section I · Multiple choice

Ten marks. One mark each. About 15 minutes. Choose the single best option.

Question 1

1 MARK

Which of the following is a reason for change named in the syllabus?

A Activism

B Interpreting statutes

C Adapting to technological change

D Royal commissions

Question 2

1 MARK

In 2026 the NSW Aboriginal Land Council ran a petition, marched to NSW Parliament and complained to the Australian Human Rights Commission about a Crown land Bill. This is best described as

A an informal driver of change
B a formal driver of change
C a legislative process of change
D a judicial process of change

Question 3

1 MARK

Under s 223(1) of the Native Title Act 1993 (Cth), native title rights and interests must be

A granted by a state Act of Parliament
B possessed under traditional laws and customs, connected to the land, and recognised by the common law
C registered as freehold title with a Local Aboriginal Land Council
D held only over land that was never subject to any lease

Question 4

1 MARK

In Wik Peoples v Queensland (1996), the High Court held that

A every pastoral lease extinguished native title
B native title could not exist over Crown land
C the pastoral leases did not necessarily extinguish native title
D terra nullius applied to Cape York Peninsula

Question 5

1 MARK

Under s 36 of the Aboriginal Land Rights Act 1983 (NSW), a Local Aboriginal Land Council may claim

A any freehold land in NSW
B Crown land that is not lawfully used or occupied and not needed for an essential public purpose
C land subject to an approved determination that native title exists
D land needed for an essential public purpose

Question 6

1 MARK

The syllabus lists “parliamentary debate” as an example of which method of change?

A Executive
B Legislative
C Judicial
D Informal

Question 7

1 MARK

Under the Voluntary Assisted Dying Act 2022 (NSW), the designated period that must normally pass before a final request

A ends five days after the day of the first request
B is ten business days after the written declaration
C is six months after the first assessment
D is twelve months, for a neurodegenerative condition

Question 8

1 MARK

In Carr v Attorney-General (Cth) [2023] FCA 1500 the Federal Court held that “suicide” in the Commonwealth Criminal Code includes voluntary assisted dying under state law. This is an example of

A a legislative process repealing a state law
B a court interpreting a statute in a way that limits a reform
C a royal commission recommending reform
D a ministerial direction to NSW Health

Question 9

1 MARK

Which statement best describes the burden of proof as a limitation of native title law?

A The Commonwealth must prove that native title was extinguished

B Pastoral lessees must prove that their lease came first

C The National Native Title Tribunal must prove that a group is traditional

D Claimants must prove that their traditional laws and customs have been acknowledged and observed since sovereignty

Question 10

1 MARK

In 2024-25, 1,028 deaths after accessing voluntary assisted dying were reported to the NSW Board; 839 involved practitioner administration. There were 2,295 first requests and 1,599 substance authorities. What percentage of the people who died chose practitioner administration?

A 18.4 per cent

B 36.6 per cent

C 52.5 per cent

D 81.6 per cent

3. Section II · Short answer

Forty marks. About 70 minutes. Write Questions 11 to 15 in the spaces provided and Question 16, the 15-mark item, in a separate writing booklet. Write in full sentences, use the syllabus's own terms and name each Act or case with its year.

Question 11

3 MARKS

Distinguish between a reason for change and a driver of change. Use an example of each.

Question 12

4 MARKS

Explain the role of the High Court in the development of native title law.

Stimulus for question 13

REPORTING PERIOD	MONTHS	FIRST REQUESTS	FIRST ASSESSMENTS	DEATHS REPORTED TO THE BOARD
28 November 2023 to 30 June 2024	7	1,139	992	398
1 July 2024 to 30 June 2025	12	2,295	2,146	1,028

Source: NSW Voluntary Assisted Dying Board, 2024-25 Annual Report. In 2024-25, 175 people were found ineligible at the first assessment, 1,599 substance authorities were approved and none refused, and 87.6 per cent of people assessed (1,879 of 2,146) were receiving palliative care.

Question 13

5 MARKS

Refer to the stimulus.

(a) Calculate the average number of first requests per month in each period, and the percentage increase between them. Show your working. (2 marks)

(b) Using the stimulus and your own knowledge, assess the effectiveness of the Voluntary Assisted Dying Act 2022 (NSW) in meeting the needs of individuals. (3 marks)

Question 14

6 MARKS

Outline the role and impact of the Aboriginal Land Rights Act 1983 (NSW).

Question 15

7 MARKS

With reference to ONE law reform you have studied, other than native title, explain how legislative, executive and judicial processes have shaped the reform.

STIMULUS FOR QUESTION 16

Source A. "More than 44,000 claims remain undetermined … After more than 42 years of land rights, only 0.2 per cent of NSW has been returned through the claims process. That is less land than the entire ACT." NSW Aboriginal Land Council, media release on the passing of the Crown Land Management Amendment (Statutory Review) Bill 2026, 16 September 2026.

Source B.

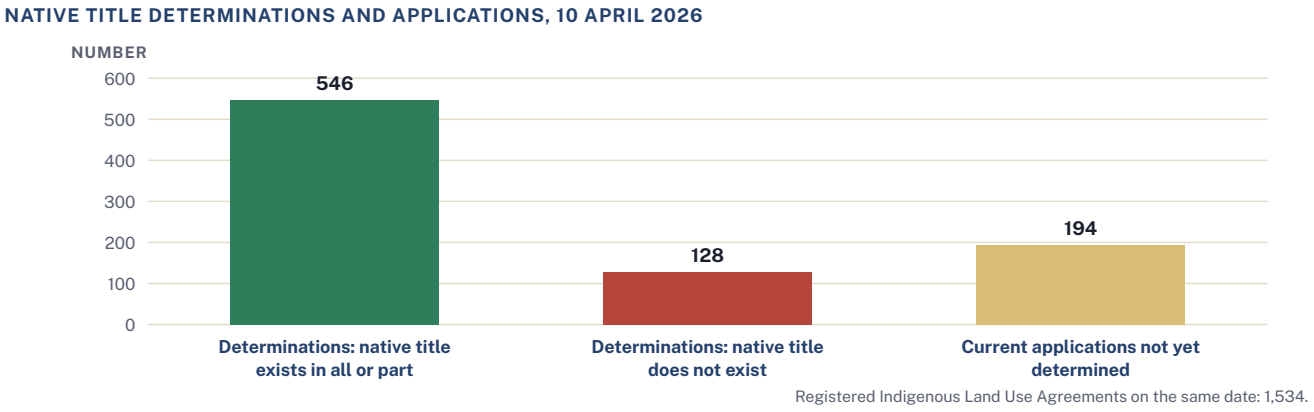


Figure 2 · Source B. Native title determinations at 10 April 2026. Source: National Native Title Tribunal, statistics page.

Source C. "The future acts regime fails to provide native title holders with two fundamental protections when their property rights are infringed: fair and reasonable participation in decisions that affect those rights, and fair and timely compensation when infringement occurs." Justice Mordy Bromberg, President of the Australian Law Reform Commission, on the tabling of ALRC Report 144, June 2026.

Question 16

15 MARKS

Using the sources and your own knowledge, evaluate the effectiveness of law reform in recognising the rights of Aboriginal Peoples to land in NSW.

Write your response in a separate writing booklet.

4. Section III · Extended response

Twenty five marks. About 45 minutes. Answer EITHER part (a) OR part (b).

Question 17

25 MARKS

EITHER

(a) To what extent has law reform achieved justice for Aboriginal and Torres Strait Islander Peoples in relation to land? In your answer, refer to land rights in NSW and native title.

OR

(b) Evaluate the effectiveness of informal and formal drivers in achieving law reform. In your answer, refer to the Voluntary Assisted Dying Act 2022 (NSW) and at least ONE other law reform.

Write your response in a separate writing booklet.

5. Marking guidance

Mark your response accurately to identify the change worth making. Equivalent evidence from another real law reform earns the same marks.

Section I

Q	ANSWER	WHY, AND THE ERROR BEHIND EACH WRONG OPTION
1	C	Technology is one of NESA's six reasons. A and D are drivers; B is a judicial process.
2	A	A land council campaigning, petitioning and complaining is advocacy and activism: informal. It has no power to change the law, so it is not a process (C, D). The AHRC is a formal body, but NSWALC using it is still NSWALC's advocacy (B).
3	B	The three limbs of s 223(1). A describes ALRA style statutory rights; C confuses native title with an ALRA grant; D overstates the effect of leases, which Wik rejected.
4	C	4:3, coexistence. A is Drummond J's first instance view, which the High Court reversed.
5	B	The s 36 tests. A: private land cannot be claimed. C and D are excluded by s 36(1).
6	A	NESA lists it with political will and ministerial directions as executive. B is the common error.
7	A	The designated period ends five days after the first request (Board, 2024-25 Annual Report). D confuses it with the prognosis rule for neurodegenerative conditions.
8	B	Statutory interpretation by a court. Nothing was repealed (A).
9	D	Yorta Yorta (2002) put the burden on claimants. A to C put it on the wrong party.
10	D	839 ÷ 1,028 = 81.6 per cent. A is the self administration share (189 ÷ 1,028); B divides by first requests (839 ÷ 2,295); C divides by substance authorities (839 ÷ 1,599).

Section II

Q	MARKS	WHAT A FULL MARK ANSWER CONTAINS
11	3	A reason is why the law needs to change; a driver is who or what pushes for the change (1). A correct reason with an example, such as adapting to technological change and the social media minimum age (2024) (1). A correct driver with an example, such as Dying with Dignity NSW's advocacy for VAD (1).
12	4	Mabo (No 2) (1992) rejected terra nullius and recognised native title at common law (1). The Court can only decide cases brought to it, so Parliament built the claims system in the NTA 1993 (1). Wik (1996) held pastoral leases did not necessarily extinguish native title, prompting the 1998 amendments (1). Later cases set limits and compensation: Yorta Yorta (2002) on proof, Timber Creek (2019) on compensation (1).
13	5	(a) 1,139 ÷ 7 = 162.7 a month; 2,295 ÷ 12 = 191.3 a month (1). 191.3 ÷ 162.7 = 1.175, an increase of about 17.5 per cent; the Board reports 18 per cent (1). (b) Judgement (1); benefit with data, such as rising use and 1,028 deaths after accessing VAD, most while receiving palliative care (1); limitation from own knowledge, such as the telehealth limit after Carr (2023), or safeguards that exclude people without capacity (1).
14	6	Role: compensation for dispossession (preamble); land councils, NSWALC and LALCs; claims over claimable Crown land (s 36); funding from 7.5 per cent of land tax 1984 to 1998 (up to 3). Impact, up to 3 in all: freehold land without proof of connection, an independent fund and economic base; backlog of about 43,000 to more than 44,000 claims (Source A says more than 44,000), 0.2 per cent of NSW returned, narrow tests after Berrima (2016). Full marks need both a benefit and a limitation.
15	7	VAD. Legislative: private member's bill, Assembly 52 to 32 (2021), Council 23 to 15 with amendments (2022), assent 27 May 2022, commencement after 18 months (up to 3). Executive: conscience votes allowed; implementation by NSW Health and the Board (up to 2). Judicial: Carr (2023) limits telehealth (1). Explains how the processes interact (1).

Question 13 (b): a full mark answer. The Act has been largely effective in meeting the needs of terminally ill adults. First requests rose from about 163 to 191 a month and 1,028 people died after accessing VAD in 2024-25, which shows the lawful choice is wanted and available, and 87.6 per cent of the 2,146 people assessed (1,879) were already receiving palliative care, so VAD has added to care rather than replaced it. However, after Carr v Attorney-General (Cth) [2023] FCA 1500, consultations by telehealth risk a Commonwealth offence, which limits access for people far from a practitioner.

QUESTION 16: CRITERIA

MARKS	CRITERIA
13 to 15	Makes a sustained, well-reasoned judgement about the effectiveness of law reform in recognising Aboriginal Peoples' rights to land in NSW, against stated criteria. Integrates all three sources with detailed, accurate knowledge of both NSW land rights and native title, including relevant legislation and cases. Precise legal terminology in a cohesive response.
10 to 12	Makes a clear judgement supported by relevant legislation and cases. Uses the sources effectively. Covers both land rights and native title, perhaps unevenly.
7 to 9	Explains aspects of land rights and/or native title with some judgement. Some use of the sources.
4 to 6	Describes land rights or native title with limited judgement or use of sources.
1 to 3	General statements about Aboriginal land or the sources.

A Band 6 plan. Judgement: law reform has achieved formal recognition but is only partly effective, because both systems restrict what can be recognised and how fast. Criteria: achievement of justice, accessibility, responsiveness. Land rights: the ALRA (1983) gives freehold title without proof of connection, as compensation for land "progressively reduced without compensation"; but Source A shows about 44,000 claims undetermined and only 0.2 per cent of NSW returned after 42 years, and Berrima (2016) narrowed claimable land; NSWALC says the 2026 Crown land Bill weakens the scheme further. Native title: Mabo (1992) and the NTA (1993) produced 546 positive determinations (Source B), including Barkandji (2015) in western NSW, and compensation now flows (Timber Creek, 2019; Yunupingu, 2025); but extinguishment by freehold and the burden of proof (Yorta Yorta, 2002) limit recognition in heavily settled NSW, and Source C shows holders lack "fair and reasonable participation" when development affects their land. Weigh: recognition is real, but access and speed decide whether rights mean land in practice, and on those criteria reform has fallen short. Conclusion: effective in principle, limited in practice; implementing ALRC Report 144 and clearing the claims backlog would be the measures of further success.

Section III

QUESTION 17: CRITERIA (BOTH ALTERNATIVES)

MARKS	CRITERIA
21 to 25	Makes a sustained and well-reasoned judgement about the extent of justice achieved (a) or the effectiveness of drivers (b), against clearly stated criteria. Detailed, accurate and current legislation, cases and data, integrated throughout. Analyses the interaction of reasons, drivers, processes and outcomes. Precise legal terminology; logical and cohesive.
16 to 20	Makes a clear judgement supported by relevant legislation and cases. Sound analysis with some integration of evidence. Logical response with appropriate terminology.
11 to 15	Explains relevant law reform with some judgement. Some accurate evidence, not always linked to the question.
6 to 10	Describes law reform with limited judgement and general evidence.
1 to 5	General statements about law reform or the case study.

Indicative content for (a). A judgement on "to what extent": substantial in recognition, limited in access and outcome. Reasons: dispossession without compensation; terra nullius as an outdated legal fiction; racial equality (RDA 1975). NSW land rights: Black Theatre (1977) and Keane committee (1978 to 81) as drivers; ALRA 1983: LALCs, s 36 claims, land tax funding ($537 million, 1984 to 1998); outcomes: freehold title, self funding network; but the backlog, 0.2 per cent returned, Berrima (2016) and the 2026 Bill. Native title: Milirrpum (1971); Mabo (No 1) (1988) and (No 2) (1992); NTA 1993; Wik (1996) and the 1998 amendments; Yorta Yorta (2002); 674 determinations, 546 positive (2026); compensation (2019, 2025); ALRC 144 (2026). Beyond: treaty in Victoria (2025); the Voice referendum defeated (2023); cultural heritage after Juukan Gorge (2020). A conclusion that weighs recognition against access and names what would change the judgement.

Indicative content for (b). A judgement on how effective drivers are, and which kind matters more. Informal: Dying with Dignity NSW ("nearly 50 years"), Go Gentle Australia (2016), public opinion; NSWALC's 1977 campaign; Yirrkala, Wave Hill and the Tent Embassy; Eddie Mabo and the plaintiffs. Formal: the failed 2017 VAD Bill (20 to 19), the 2021 committee inquiry; the Keane committee; the Woodward Royal Commission; ALRC Reports 126 and 144. Weighing: informal drivers create demand but need formal drivers and a willing Parliament or court; VAD shows advocacy plus other states' laws plus a conscience vote; native title shows a single litigant (Mabo) moving the law further than decades of inquiries; ALRC 144 and NSWALC's 2026 campaign show drivers do not always succeed. A conclusion that commits to which drivers matter most and when.

> A judgement that does not name its criterion is an opinion. Name it in your first paragraph.

DATE	MARK, OUT OF 75	THE ONE CHANGE I WILL MAKE NEXT TIME

About this resource

MA99 EDUCATION

Scope

NSW Legal Studies, Year 11. Written to the NSW Legal Studies 11-12 Syllabus 2025, Changing the law, 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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