



Examiner's Comments
01 FOUNDATIONS OF LAW
September 2025 Examinations

The exam comprised of five questions. Candidates were required to answer four questions. All questions were of equal value (20 marks each).

Question 1

This question focused on constitutional principles within the Australian constitution.

Question 2

This question was comprised of two parts. The first part engaged, inter alia, with concepts of judicial independence and judicial impartiality. The second part explored ratio decidendi and majority judgments.

Question 3

This question was comprised of two parts. The first part required students to engage with a quote and apply selected jurisprudential frameworks studied in the course to the question posed. The second part focused on Australian trends in statutory interpretation.

Question 4

This question was comprised of two parts. The first part explored the topic focusing on common law precedent. The second part explored the topic of native title and Aboriginal and Torres Strait Islander peoples' land rights.

Question 5

This question was comprised of two parts. The first part required students to engage with a quote exploring the professional and ethical obligations comprised through the misuse of generative artificial intelligence. The second part of the question required students to set out the similarities and differences between various pairs, eg common law and equity.

Characteristics of poor or average responses

Poor or average answers do not answer the question(s) asked and often contain irrelevant or inappropriate material. In this connection, some of these papers appear to rely too heavily on the open-book format of the exam to produce responses that are not tailored to the questions asked of students.

Poor or average answers often lack analysis. These answers contain conclusory statements, not reasoned arguments as required: ie while they may well identify some of the relevant legal issues, they lack analysis, instead simply asserting a conclusion often devoid of reasoned legal analysis. Poor answers here often appear to copy uncritically word-for-word from notes or online materials, sometimes without acknowledging such sources.

Poor or average answers contain few or no identifiable arguments. They do not recognise that there are alternative ways of answering some questions and that some assertions in exam questions are deliberately provocative encouraging contestation and critical engagement.

Poor or average answers contain significant or numerous errors and/or omissions reflecting a demonstrable lack of in-depth study of relevant topics. Poor or average responses demonstrated difficulty identifying relevant sources of law. Some responses did not cite a single statutory provision or case on point as authority for a legal proposition advanced, or they relied too heavily on one or two cases.

Poor or average answers are unintelligible and/or written entirely in point form, rather than complete sentences and paragraphs. Problem questions test a student's ability to analyse a problem and to reason logically towards a conclusion.

Poor or average answers do not manage the definitional questions well. They do not adequately synthesise concepts and address the specific question(s) asked of students, instead, reciting definitions from notes and/or legal dictionaries and leaving it to the examiner to draw conclusions.

Poor or average answers suffer from poor time management, leaving entire questions unanswered or not addressing all issues within any given question.

Characteristics of very good or excellent responses

There were some excellent responses and many very good answers. The hallmark features of such answers are that they critically engage with the questions asked of students and addresses each component of multi-pronged questions with appropriate supporting materials. Such responses advance a clear thesis/point of view ('position') in response to the issues put in the exam questions and offers reasoned arguments in support of that position that are well structured and introduced with clarity at the beginning of each paragraph/section.

Very good and excellent responses demonstrate a thorough knowledge of concepts introduced in lectures and course materials combined with individual reflection on those topics. Excellent answers contain striking originality of approach or analysis.

Very good or excellent answers demonstrate independent thinking and expresses responses in an individual style based on information introduced in the course but transformed and processed in student's individual legal reasoning exercise conducted prior to and during exam.

Very good and excellent responses completely answer each question attempted by managing time effectively and by allocating sufficient attention to each question attempted.

Very good and excellent responses discern between relevant and irrelevant parts ('red herrings') of each topic to address the question with precision and clarity. They offer brief introductory outlines, where appropriate, and address relevant aspects of the issues raised by the question. Such responses can, for example, reject the proposition presented in the question and provides a substantiated counter argument.

Very good and excellent responses demonstrate sophisticated intellectual *engagement* with judicial statements (e.g. quotes) and issues raised therein and uses appropriate course materials (readings, lectures etc) to advance and defend the position taken. Such responses critically assess more complex propositions and apply them to the specific context of the question.

Very good or excellent responses are generally exceptionally well written, structured and expressed

Common mistakes

Common mistakes include:

- conflation between US and Australian constitutions and concepts.
- conflation between different approaches to statutory interpretation
- not understanding the doctrine of precedent
- conflation of majority verdicts (in juries) and majority judgments
- inclusion of irrelevant material.

Areas for improvement

Areas of improvement lie in encouraging students to engage more critically with the course subject matter and answer questions put to them, especially as it relates to some of the common mistakes set out above. Many poor responses seem to reproduce prepared answers uncritically and not tailored to the nuance in the question(s) posed.