

# **ADMINISTRATIVE LAW SUMMARY**



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## TOPIC 1. The Framework of Administrative Law

### 1.1 The scope and objectives of administrative law

- It is a branch of public law.
- A set of rules or a body of law to regulate the exercise of power and the making of decisions by the executive (decision-making) branch of government, the administrative arm of government and non-government bodies.
- Administrative review is premised on separation of powers, responsible government, and parliamentary sovereignty.
- The main objectives of Administrative Law are:
  - To keep within limits, the “public powers” of the government through:
    - *Ultra vires* doctrine – Latin for ‘beyond power’. This means that a public body cannot act beyond the ambit of their authority or exercise powers they don’t have.
    - The Separation of Powers – provides a system of checks and balances on the exercise of power by the various arms of government. In particular, it ensures the role of the judiciary in keeping the legislative and executive arms of government accountable (see *Victorian Stevedoring and General Contracting Co Pty Ltd v Dignan* (1931) 46 CLR 73)<sup>1</sup>.
    - Rule of law – this is the idea that all bodies, including the bodies that make and execute the law, are also subject to it. Judicial independence allows the courts to oversee decisions made by the executive and providing access to justice.
- Judicial/administrative review allows individuals to challenge unlawful decisions, thus promoting accountability and fairness.



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<sup>1</sup> Groves M. & Lee H.P., *Australian Administrative Law: Fundamentals, Principles and Doctrines*, 1<sup>st</sup> ed., Cambridge University Press, Melbourne, Australia, 2007 at 6.