

# Legal Studies and Professional Practice

CVEN9726

The University of New South Wales

Course Author:

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# Course Outline

Unit	Date	
1		The Legal System I Sources of Law; The Courts
2		The Legal System II The Legal Profession; Juries The Legal System III The Court Process Typical Statements/Documents, Pleadings
3		Liability - Tort
4		Professional Indemnity Insurance; Liability - Statute
5		Expert Witness and Expert Evidence; Intellectual Property
6		Ethics; Ethics - Cases
7		Introduction - Disputes
8		Dispute Avoidance Practices and Non- Adversarial Projects I, II, III
9		Trust, Cooperation and Goodwill; Formal Cooperation
10		Negotiation; Negotiation - Case Studies
11		Methods of Dispute Resolution
12		Disputes and Verbal Contracts; Disputes - Case Studies

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# An Invitation to the Reader

These notes are part of an evolving process and I welcome comment and feedback on their content.

If you disagree with opinions given, have alternative interpretations or have something to contribute that would enhance the notes, I would be very pleased to hear from you.

Please contact me directly:

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# Overview

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## Structure

The notes cover legal, para-legal and non-legal matters.

NOTE THAT THE LAW IS CONTINUALLY CHANGING, AND READERS SHOULD CHECK THAT MATERIAL IN THESE NOTES HAS NOT BEEN SUPERSEDED BY RECENT DEVELOPMENTS.

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## Legal studies

The course is intended to give a broad appreciation of many legal matters and how they impinge on the daily lives of professionals and others. Legal matters seem to be taking on increased prominence in projects. Professional negligence is becoming a commonly encountered matter in the workplace.

The course covers broad legal principles; those with which you are most likely to come into contact in your early professional life. It is not intended as an exhaustive analysis.

You will commonly find unfair remarks about the legal profession in the popular press and in office humour. This course is intended to put such remarks in perspective.

Consider also the following passage of a letter from one firm of lawyers to another firm of lawyers:

*We act for the Vendors herein and are informed by the relevant Agent in the sale that you act for the Purchasers. Accordingly, we furnish herewith Duplicate Agreement for Sale of Land for your perusal and upon approval, signature duly by your clients as Purchasers ancillary to your appointing in mutuality with us exchange of such Agreement for conforming original part of the instant Agreement, signed duly by our clients, the Vendors ...* (R. Eagleson, Australian Construction Law Newsletter, Vol. 10, p. 5, February 1990)

While the English of technically trained people can leave a lot to be desired, this passage is indicative of the trouble non-lawyers have of penetrating the world of lawyers. Fortunately, there is an ongoing attempt to change the language and to simplify acts of Parliament and regulations. The modern approach throughout Australia is for lawyers to speak clearly and write in clear and simple language. This course is intended to break down some of the barriers between technically oriented areas, such as engineering, and law.

## **Aim**

The primary aim of these notes is to describe some legal matters in terms understandable to people such as engineers. The notes are not intended as a legal textbook or legal advice. The notes aim to provide you with knowledge of some legal terminology, processes, rules, procedures and conventions as they affect engineering and like professions.

The law, as seen by outsiders, is a set of rules and procedures disguised by its own unique jargon and players. It is not essential that engineers and like people know the law, but rather they should know where to find the law, what the terminology means, where to go for the correct advice and what questions to ask in order to get the correct advice. Be assured that even legally trained people do not know everything about the law.

When you have completed the material in the Study Guide, you should have an understanding of:

- The origins of Australian law.
- How our courts are structured.
- The various players in the legal system.
- How courts operate.
- The place of juries in the legal system.
- An professional person's legal liability.
- The role professionals play in providing expert evidence.

Legal issues associated with contracts are covered in the course on Contracts Management.

The intent is not to make lawyers out of you, or give legal advice, but rather to make you aware of what you do know and do not know, where to turn for advice and what are the correct questions to ask.

Do not be apologetic that you do not know everything about the law. Lawyers, for example, do not know everything about engineering. By

studying notes such as this you should be able to converse and interact with lawyers in a more meaningful and efficient way.

Broad principles only are given. As a legal reference, these notes are not a primary source - perhaps closer to a tertiary source. Lawyers are trained to advise on the interpretation of particular circumstances and should be consulted for such purposes.

### **Further reading**

D. Sampson (ed.), *Management for Engineers*, Longman, Melbourne, latest edition.

Of interest is the journal, *Journal of Professional Issues in Engineering Education and Practice*, American Society of Civil Engineers.

As well, there are numerous law journals.

Many law firms have web sites containing newsletters on recent legal developments. For example:

Deacons  
[www.deacons.com.au](http://www.deacons.com.au)

Clayton Utz  
[www.claytonutz.com](http://www.claytonutz.com)

Norton Rose  
[www.nortonrose.com](http://www.nortonrose.com)

Doyles  
[www.doylesconstructionlawyers.com](http://www.doylesconstructionlawyers.com)

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## **Professional practice**

Extending beyond and impinging on legal matters are issues to do with ethics.

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## Disputes

One important aspect of project management is the commercially wise handling of disputes on projects. Few projects do not involve disputes. The source of these disputes variously might be personalities, different opinions, values, desires, needs and habits, performance, insufficient attention to documentation, unexpected eventualities, and so on. Disputes have the potential to convert an otherwise successful project into an unsuccessful one. This course focuses on a number of issues to do with disputes within projects. It firstly looks at dispute avoidance practices, non-adversarial projects and issues such as trust, goodwill and cooperation. Secondly it looks at first-attempt dispute resolution through negotiation; and where negotiation fails, other means and methods that are sought to resolve the disputes. Case studies are used to illustrate the ideas and practices.

### Aims

When you have completed these notes, you should have a better understanding of:

- Dispute avoidance practices and non-adversarial projects.
- Trust, cooperation and goodwill.
- Formal cooperation.
- Negotiation.
- Methods of dispute resolution.
- Disputes and verbal contracts.

The intent is not to make lawyers out of you, or give legal advice, but rather to make you aware of what you do know and do not know, where to turn for advice and what are the correct questions to ask.

Do not be apologetic that you do not know everything about the legal side of contracts. Lawyers, for example, do not know everything about engineering. By studying notes such as this you should be able to converse and interact with lawyers in a more meaningful and efficient way.

Broad principles only are given. As a legal reference, these notes are not a primary source - perhaps closer to a tertiary source. Lawyers are trained to advise on the interpretation of particular circumstances and should be consulted for such purposes.

Office humour such as the following might further help break down the barriers:

*Engineering inspectors are people who go in after the war and bayonet the wounded.*

*Lawyers are people who go in after the engineering inspectors and strip the bodies.*

*Professional indemnity insurers are people who come in after the lawyers and interrogate the bodies in an attempt to find out what went wrong.*



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# Author

## **David G. Carmichael**

David is a graduate of The University of Sydney (B.E., M.Eng.Sc.) and The University of Canterbury (Ph.D.) and is a Fellow of The Institution of Engineers, Australia, a Member of the American Society of Civil Engineers, formerly a Graded Arbitrator with The Institute of Arbitrators, Australia, and a trained mediator. He is currently a Consulting Engineer and Professor of Civil Engineering, and former Head of the Department of Engineering Construction and Management at The University of New South Wales.

He has acted as a consultant, teacher and researcher in a wide range of engineering and management fields, with current strong interests in all phases of project management, construction management and dispute resolution. Major consultancies have included the structural design and analysis of civil and building structures; the planning and programming of engineering projects; the administration and control/replanning of civil engineering projects and contracts; and various construction and building related work. In addition there have been numerous smaller consultancies in the structural, construction and building fields. He has provided expert reports and expert witness in cases involving structural failures, construction accidents and safety, and contractual and liability matters.

He is the author and editor of twenty-one books and over one hundred papers in structural and construction engineering and construction and project management.

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# The Learning Program

The educational strategies and course manual have had input from a variety of people. The course has been prepared using self/independent learning principles whereby students are able to develop their own learning potential at their own pace and in their own surroundings.

Learning is optimised through the management of the course material by a course coordinator and by the students themselves. Efficient learning practices and the motivation to learn, centre on the weekly units and interaction with others. This also enables a student's progress to be monitored. The contribution to the learning process of formally undertaking the course, on top of the content of the course manual, should not be underestimated.

There are four components to the learning resources for this course:

- The course manual.
- The interaction with the coordinator.
- The interaction with fellow students, colleagues and mentors.
- Supplementary reading.

The course manual is intended to be relatively self-contained although references to other sources are provided. The manual is a study guide with readings from other sources included as appropriate. It is divided into twelve units, with each unit representing material to be covered in one week. The manual is intended to guide you through the material at your own pace in your own surroundings. Exercises are set regularly throughout the manual to test your understanding of the course material and to take you beyond the material.

Each week candidates are expected to work through the relevant unit including the exercises. This is an essential requirement for successful study. It provokes the need to interact with the coordinator, fellow students, colleagues and mentors on matters raised from that work, from further reading that has been done, or from discussions with third parties. Attention should be concentrated on those matters considered important in understanding the material. The interaction provides feedback on your progress. The coordinator, an expert in the subject and one who is familiar with self/independent learning principles, assists with additional insight and understanding resulting from his/her experience and also provides feedback.

Your fellow students, colleagues and mentors also assist in the learning process through the sharing of experiences and through their questioning and discussion of the course material. The interaction enhances the learning experience.

It is suggested that you choose a mentor from among your workplace colleagues or supervisors. This mentor should be someone to whom you can relate well on a personal basis and a person with experience in the field of study. Your mentor can have valuable input in discussions on the course and relate the material to the workplace.

Supplementary reading may be from your personal library, your workplace library or an institution library. References to other sources are contained in the course manual.

### **Study Guide Exercises**

As part of the learning process, exercises are set throughout the Study Guide to:

- Make you think about and reinforce the material you have just read.
- Test your understanding of the Study Guide material.
- Make you think beyond the issues covered in the Study Guide.
- Get you actively involved in the learning process.

According to the Confucian saying:

*I hear and I forget  
I see and I remember  
I do and I understand*

In management, there is frequently no right or wrong answer. In most cases people are satisfied with a satisfactory outcome. The idea of an optimum solution may not exist. People from technical backgrounds may initially have difficulty in accepting that there is no right/wrong, black/white, on/off, yes/no answer.

Spaces are left for your use in doing the exercises. The size of the space should not be interpreted as the length of the optimum answer. If you are happy with your understanding of the exercise, move on. You do not have to use the space provided.

## Humour Icon

An icon is used to guide you through the humour in the manual, in case you miss the joke!



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# Assessment - General

Assessment is a part of the learning process and is designed to reinforce the course material and take you beyond. Inclusion of information by you in your submissions that means you are taking the learning to your workplace is encouraged. Submitted material also provides an opportunity for feedback to the student.

Assessment for the course comprises 4 components:

Component	Max. Mark	Dates
A. Contributing to wiki topics	35	Throughout session
B. Editing of nominated wiki topics	10	Dates to be posted on Blackboard
C. Individually prepared report	35	Submit whenever you like, but <b>late penalties</b> apply after 5pm August 28*
D. Feedback on nominated individuals' reports (as submitted for Component C)	20	Submit whenever you like, but <b>late penalties</b> apply after 5pm September 25*
Total	100	

\* Submit as early as possible because you don't know what might happen to you near these dates.

\* After submitting, always check what you have submitted.

Satisfactory performance in all assessment components is necessary in order to achieve reasonable grades. A maximum total mark of 50% for the course may be given should a fail grade be obtained in any of the assessment components (irrespective of grades obtained in other assessment components).

The course convenor reserves the right to adjust by scaling the final marks given in each of the components where, looking at the marks given across the total postgraduate cohort, it is believed the original marking and/or assessment has been too harsh or too light.

## **Grading of all assessment**

Grading of all assessment will be based on the following criteria (where relevant).

### **1. Structure and Flow**

(How well has the work been structured in terms of logical flow of the argument and leading the reader through the topic?)

### **2. Content**

(How comprehensive is the coverage of the topic – in depth, superficial or otherwise? Is it postgraduate level? How well does the work address the topic – Fully? Not at all? Skirts the topic? Misses the point? Gets sidetracked? Goes off on a tangent?)

### **3. Presentation**

(How professionally or amateurishly presented is the work?)

### **4. Accuracy**

(Is something said that is incorrect or contentious?)

### **5. Objectivity**

(Has the work been objective in its presentation. Does it recognize the difference between rigorous objectivity and subjective opinion?)

### **6. Referencing**

(Does the work include appropriate citations within the body of the work. Is the Reference list at the end complete in all details, such that any reader would be able to go directly to any reference?)

### **7. English Expression, Grammar and Spelling**

(English expression, grammar and spelling (Aus) – correctly used? Does the work show that it has been proofread for English?)

### **8. Writing Style**

(Is the work concise and to the point? Or is it verbose and uses unnecessary padding?)

### **9. Level of Material**

(Is the level of presentation that which you would expect at postgraduate level? Or is it too simplistic and at undergraduate level?)

More generally, the following issues will be looked at in assessing your written work:

- Evidence of understanding of the concepts, theories and ideas developed in the course.
- Ability to apply these concepts to examples from your own experience.
- Clarity of description, explanation and attention to the focus of the assignment.
- Capacity to structure your work logically and limit it to the length required.

- Degree to which the material submitted for assessment addresses the specified or negotiated assignment requirements.

## **Grading**

University grading is as follows:

0%-49%	FL	Fail
50%-64%	PS	Pass
65%-74%	CR	Credit
75%-84%	DN	Distinction
85%-100%	HD	High Distinction

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# Assessment Details

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## Assessment Component A

### Wikis

A number of topics will be set up in the Discussion Tool in Blackboard and individuals contribute to the topics by adding to, and subtracting from or modifying (if incorrect or expressed poorly or can be improved) in a sequential fashion, such that the latest entry is the collective wisdom of all the individuals who have contributed up to that point in time.

**Some ground rules** (purely to ensure proper functioning within a distance-study environment):

1. Each topic will be started in the Discussion Tool. It will remain open for **2 weeks** from original posting.
2. If you wish to contribute to a topic, then 'Reply' to the latest entry (use the 'Reply' button), and insert words such as 'I wish to contribute' (as a message, not the subject line). Do not do this and then not make a contribution; this will make everyone very cranky. There is no need to rush and panic; there will be plenty of topics and opportunities to contribute. Think before you decide to contribute.
3. Please don't be selfish or inconsiderate to others. Only reserve one topic at a time through 'I wish to contribute'.
4. Do not reply to an 'I wish to contribute' that has gone past its allowed 24-hour window. (Eventually this 'non-contribution' will be deleted by the course coordinator.) Only 'Reply' to the latest real contribution.
5. If you are the next in line, REPLACE your 'I wish to contribute' words with your contribution. (Use the 'Edit' button.)
6. You will be reserved a **24-hour window** to make your contribution, undisturbed by others in the class; all others are to back off for these 24 hours.
7. **From experience, people who make an instantaneous contribution off the top of their heads, or take very little time to post after stating 'I wish to contribute', submit contentless, superficial material and score lowly. So use the full 24-hour window and contribute something of substance - something based on considered thought. If you don't do this, don't complain at the end of session when you receive low grades for the rubbish submitted.**

8. Alternative arguments and viewpoints are encouraged. List the various different viewpoints and give the arguments for/against each. In many cases, it may not be possible to say that one viewpoint is correct and another is wrong. All viewpoints might be equally reasonable/unreasonable. Perhaps write as: 'One view is ..... and its support comes from ..... ' etc. 'An alternative view held by some people is ..... and its support comes from ..... ' etc.
9. Once this new contribution has been made, or the 24 reserved hours are up (whichever comes first), go to Step 2 and the process repeats until the end of session.

You should definitely look at <http://en.wikipedia.org/wiki/Wikipedia> for some of the pluses and minuses of wiki style knowledge; and for expectations on content contributions. You should familiarise yourself with how Wikipedia works. Even though many people quote Wikipedia religiously and place it up there alongside holy books, they are unaware of how the material in Wikipedia is assembled.

In terms of whether a wiki is 'correct' or not, this is no different to Wikipedia. Because both have been assembled by people whose credentials in the topic area are not checked, you need to always be aware that something in the wikis or Wikipedia may in fact be wrong. This brings you back to the core reason for postgraduate study - to make you into a thinking not accepting/regurgitating animal. Just because something appears in black and white, do not accept it without questioning first.

The wikis are intended to be a form of self-regulation, such that if a view is expressed that you disagree with, then you can add an opposing view together with supporting evidence. See for example Wikipedia and the way religious dogma is treated. As well, if something posted does not relate to the topic, you can remove it. If the logical flow is wrong, you can change it. If there is duplication, you can remove it. etc.

There should only be ONE thread for each topic; there should only be a single path from the first contribution to the last contribution. The latest entry should be the latest collective wisdom of the class. Do NOT start or continue second and third threads; these will be deleted by the course coordinator.

At the end of the session, we should have good collective wisdom on all the topics.

You would be expected to contribute **meaningfully and properly** to approximately **one quarter of the topics** through the session in order to

get maximum marks, but you are welcome to contribute to as many topics as you like, and as many times to each topic as you like. The number of words in your contributions and the total number of contributions is not assessed, rather **the content (not the quantity) of what you contribute is assessed**. Terse contributions that enlighten a lot are better than verbose contributions that hardly enlighten at all. **Just making a contribution does not mean that you are entitled to marks; the contribution has to be good in order to receive marks.**

Regularly look for any announcements in Blackboard regarding the administration of the wikis.

### **Your contributions**

1. Contribution length: **Min 50, max 150 words**. (The minimum eliminates trivial postings; the maximum stops one person dominating the discussion.)
2. Proofread your contribution for spelling and grammar.
3. Use third person (not first or second person).
4. Cite within a contribution as Author (year) or (Author, year). (Not square brackets with numbers; not superscripted numbers.)  
Add an alphabetical list of References at the end, **complete** with all authors, authors' initials, year, title, and (for a journal) journal name, volume, issue, pages; (for a book or report) publisher and place of publication; (for the internet) full web address.
5. Material (text, figures, tables) copied from elsewhere, and not acknowledged, is referred to as **plagiarism** and represents academic misconduct for which students can fail a course and can have their enrolment cancelled. Any text from another source needs inverted commas around it, together with a citation of Author (year) and the page number of the quote. Any figure or table from another source needs a citation in the figure/table caption. Then give full referencing under 'References' at the end.
6. Use subheadings and give a structured flow. Give structure and logic, if what precedes you is unstructured and presented in an ad hoc way.
7. Do not extract or paraphrase material from the Study Guide. Just reference the material's location in the Study Guide.
8. Do not repeat or paraphrase that already said by a previous contributor.
9. Don't use background shading or background colour.
10. Make your contribution terse, concise and to the point. Don't pad or be verbose.
11. Don't make trivial contributions.

12. Focus your contribution directly on the topic and exclude peripheral information (even though you might find such interesting).
13. Integrate your contribution with previous contributions. Do not just tack something on, unless you are adding to a list.
14. A 'Summary/Conclusions' style section at the end is not wanted. A 'Contents' list at the start is not wanted. An 'Introduction' style section is not wanted.
15. Don't start new threads/paths. Only one thread is asked for, that is there is only a single path from the first contribution to the last contribution.

### **The mechanics of submitting**

1. Copy the latest contribution from Blackboard into a **text editor** (something that has minimal formatting and style options; **NOT** MSWord or similar word processors because you will lose any formatting and then get upset).
2. Using the text editor, put your contribution in **red**. Your contribution will involve adding to/subtracting from/modifying what has gone before.
3. Put contributions by others in black.
4. Paste back into Blackboard. Your posting now becomes the latest collective wisdom.

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## Assessment Component B

**Assessment Component B(i)** involves two activities for each wiki allocated to you:

- A once-only editing of the wiki (following wiki close).
- Comments on individual contributions to the wiki.

You may be allocated more than one wiki to edit over the duration of the course.

**Assessment Component B(ii)** involves:

- Editing someone else's editing (from B(i)), that is improving on previous work.
- Comments on the changes that you have made to the original edit.
- Comments on individual contributions to the wiki.

Regularly look for any announcements in Blackboard regarding the administration of the wikis.

### Part B(i)

#### Editing of wikis

An editor will be allocated to each wiki. That person's job is to convert submitted material into something that represents postgraduate level thinking and writing, and into something that is factually correct.

The maximum length of the final edit is [500 words](#), but less is definitely preferred.

Note that you do not have to contribute content to the wiki if you don't want to or can't. Your role is one of editor.

Editing will include: the removal of padding and duplication, the correcting of poor grammar and expression, the correcting of spelling mistakes, the correcting of inaccuracies, the deletion of material not on the topic, the giving of a logical structure to the wiki, tidying up the visual appearance or presentation, etc. Provided you are sensible, you have free rein to edit as you wish.

It will be expected that your editing will be quite ruthless, but sensible nevertheless. We are looking for a concisely worded factual account of

the topic. Beware though, don't delete relevant facts in your enthusiasm to prune the contributions.

Put your changes in **red**. Leave unchanged text in black.

The grade you receive will depend on how thorough or superficial your editing is.

[After the wiki closes](#), you will be given **1 week** maximum in which to do a thoroughly professional edit.

### **Comments on contributions**

Based on past experience, you will find that many contributors:

- Don't read instructions.
- Miss the point of the topic, and write on something different or peripheral.
- Write verbosely, saying very little with a lot of words.
- Write in circles without any structured logic.
- Don't know what they are talking about, but feel that they need to contribute something.
- Plagiarise other documents, because they have no ideas of their own. This includes plagiarising information which is incorrect, of little intellectual value, or not even on the topic.

These same contributors are **not aware of how bad** their contributions are, get upset when told the truth, and blame the messenger. Generation X and Y people blame other people (especially lecturers) for their shortcomings, rather than be self-critical and honest about their own shortcomings.

Your comments on individuals' contributions will take the form of completing the following table and pasting the table in the allocated place in Blackboard. You can use MSWord for this. Take this seriously, because you are being assessed on what you notice or don't notice about others' contributions. Being nice to your friends is not a good tactic.

[After the wiki closes](#), you will be given **1 week** maximum in which to submit these comments.

<b>Contributor's name</b> (in order of contribution)	<b>Comments on contribution</b> (If you think a contribution is good, leave this column blank. Otherwise, enter any of the numbers from the 'Your contributions' list of 15 numbers – Assessment Component A – corresponding to where you believe the contributor needs to improve for subsequent wikis. Numbers only, no words. Be honest – this will help the contributor to know how to improve.)	<b>Example(s)</b> (Corresponding to each number that you entered in column 2, quote from the contribution the offending text. Or if a quote is not applicable, give a short explanation of your reason for the number in column 2.)

**Right of reply**

Contributors will be given a 'right of reply' to your comments on their contributions. This right of reply is to be a self-contained argument based only on the merits of the contribution, and is not to refer to any comparison feedback given by editors or the course coordinator of others' contributions.

**B(ii)**

**Editing of the edit in B(i)**

A second person (in addition to the editor in B(i)) will be allocated to each wiki. That person's job is to take the existing edit from B(i), also look at the underlying individual contributions, and improve upon the edit.

Changes to the original edit are to be in red. Unchanged parts of the original edit are to be in black.

Note that you do not have to contribute content to the wiki if you don't want to or can't. Your role is one of editor.

Preface (in blue) your edit with brief (objective) reasons why you changed the original edit. Be honest - this is important in order that the original editor can improve in future editing.

The maximum length of the edit is 500 words, but less is definitely preferred.

After the original edit closes, you will be given 1 week maximum in which to edit the original edit.

### **Comments on contributions**

Do the same as for the original edit. Paste your table separately to the table in B(i); do not delete the table in B(i).

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# Assessment Component C

## Individual Report

You are required to write on one topic for your 'hand-in' (electronically via Blackboard) report. The report topics will be posted on Blackboard.

**Late submission penalty** – A deduction of 7 marks will occur for every calendar day or part calendar day late after the date nominated.

Submissions can occur whenever you like. It is suggested that you submit early if you anticipate any troubles whatsoever (eg dog ate usb stick, computer malfunction, boss asks you to do some work for a change, power or computer failure, internet down, illness, death, away from civilisation) in submitting.

Regularly look for any announcements in Blackboard regarding the administration of the report.

## Your report

- a. Title your submission file **SurnameInitials\_Topic#.doc** Nothing else. For example, SmithAB\_Topic3.doc
- b. Submit as an attachment to Blackboard, not a cut and paste to Blackboard, not as an email attachment. After submitting, **check** that you have submitted the correct file.
- c. Use sensible margins.
- d. Use 12 point Times, single line spacing.
- e. Length - maximum **5** pages (including appendices, figures and tables), or very very close to 5 pages.
- f. Do not repeat the wording of the assignment. Do not give a table of contents.
- g. No cover page. Nothing in headers or footers. Use the first two lines of your submission for: Course name, report topic, and your name (all 12 point type).
- h. Proofread for spelling and grammar.
- i. Use third person (not first or second person).
- j. Citations within the report are as Author (year) or (Author, year). (Not square brackets with numbers; not superscripted numbers.) An alphabetical list of References at the end is complete with all authors, authors' initials, year, title, and (for a journal) journal name, volume, issue, pages; (for a book or report) publisher and place of publication; (for the internet) full web address. A Bibliography is a list of works that are related to

the topic and ones you looked at, but didn't cite directly. So both a list of References and a Bibliography would be expected.

- k. Material (text, figures, tables) copied from elsewhere, and not acknowledged, is referred to as plagiarism and represents academic misconduct for which students can fail a course and can have their enrolment cancelled. Any text from another source needs inverted commas around it, together with a citation of Author (year) and the page number of the quote. Any figure or table from another source needs a citation in the figure/table caption. Then give full referencing under 'References' at the end.
- l. Use subheadings and give a structured flow. Bullet points are acceptable within the report, but not as the total report.
- m. Do not extract or paraphrase material from the Study Guide. Just reference the material's location in the Study Guide.
- n. Make your contribution terse, concise and to the point. Don't pad or be verbose. **Don't pad** with pretty pictures.
- o. Focus your contribution directly on the topic and exclude peripheral information.
- p. Do not use footnotes.

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# Assessment Component D

## Peer Feedback of Individuals' Reports

You will be allocated reports submitted by others in the class (under Assessment Component C). You are to provide feedback on these reports.

For each report allocated to you, provide a critique or critical appraisal. You should cover both positive and negative aspects of each report appraised.

Be objective in doing this. Avoid personal criticism of the author. Concentrate on the report itself. **Present in-depth and insightful comment; superficial comments, or bland answers to the prompts given below, will be graded very lowly.**

**Late submission penalty** – A deduction of 4 marks will occur for every calendar day or part calendar day late after the date nominated.

Submissions can occur whenever you like. It is suggested that you submit early if you anticipate any troubles whatsoever (eg dog ate usb stick, computer malfunction, boss asks you to do some work for a change, power or computer failure, internet down, illness, death, away from civilisation) in submitting.

Regularly look for any announcements in Blackboard regarding the administration of the feedback.

### Format for feedback

Structure your submission as follows (the first four lines in this order):

**Course number/name:** .....

**Report topic:** .....

**Original author's name:** .....

**Feedback person's name:** .....

Then structure your feedback according to the following 10 headings. (Include these 10 headings, but not the prompts given here in parentheses following the headings.) **Do not treat the prompts as a Q & A exercise – you are to give meaningful postgraduate-level independent thought and comment, not bland high-school answers to the prompts.**

### **1. Structure and Flow**

(How well has the report been structured in terms of logical flow of the argument and leading the reader through the topic?)

### **2. Content**

(How comprehensive is the coverage of the topic – in depth, superficial or otherwise? Is it postgraduate level? How well does the report address the topic – Fully? Not at all? Skirts the topic? Misses the point? Gets sidetracked? Goes off on a tangent?)

### **3. Presentation**

(How professionally or amateurishly presented is the report?)

### **4. Accuracy**

(Is something said that is incorrect or contentious?)

### **5. Objectivity**

(Has the report been objective in its presentation. Does it recognize the difference between rigorous objectivity and subjective opinion?)

### **6. Referencing**

(Does the report include appropriate citations within the body of the report. Is the reference list at the end complete in all details, such that any reader would be able to go directly to any reference (test this out)?)

### **7. English Expression, Grammar and Spelling**

(English expression, grammar and spelling – correctly used? Does the report show that it has been proofread for English?)

### **8. Writing Style**

(Is the report concise and to the point? Or is it verbose and uses unnecessary padding?)

### **9. Level of Material**

(Is the level of presentation that which you would expect at postgraduate level? Or is it too simplistic and at undergraduate level?)

### **10. Suggestions for Improvement**

(Give advice as to how the report could be improved.)

## **Your feedback**

- a. Title your feedback file **FeedbackSurnameInitials\_Topic#.doc**  
Nothing else. For example, if the original report that you are providing feedback on was titled SmithAB\_Topic3.doc, then title your feedback as FeedbackSmithAB\_Topic3.doc
- b. Feedback on different reports is in separate files.
- c. Submit as attachments to Blackboard, not a cut and paste to Blackboard, not as an email attachment. After submitting, **check** that you have submitted the correct files.
- d. Length – **2** pages maximum per feedback.
- e. Use the first four lines of your submission for: Course number/name, report topic, original author's name, and feedback person's (your) name (all 12 point type).

- f. Essentially follow the guidelines on presentation and content for Assessment Component C.

### **Right of reply**

Report authors will be given a 'right of reply' to your feedback of their work. This right of reply is to be a self-contained argument based only on the merits of the report and the respective feedback given, and is not to refer to any comparison feedback given by others or the course coordinator.

The right of reply will be through the medium of the Discussion Topics in Blackboard.

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# Supplementary Readings

*Copied under Part VB of the Copyright Act 1968, as amended, on 15 February 1994.*

Some readings, supplementary to the Study Guide, will be given.

Origins of Australian Law, pp 752-762, The Macquarie Easy Guide to Australian Law, J. Bowen, Macquarie, Sydney, 1987.

About the Legal System, pp 1-16, The Law Handbook, Redfern Legal Centre, Sydney, 8th ed., 2002.

The Jury, pp 793-798, The Macquarie Easy Guide to Australian Law, J. Bowen, Macquarie, Sydney, 1987.

Assistance with Legal Problems, pp 50-60, The Law Handbook, Redfern Legal Centre, Sydney, 8th ed., 2002.

Responsible Use of Computer Technology by Engineers, T. D. Laurie and M. R. Becker, Journal of Professional Issues in Engineering Education and Practice, ASCE, April 2004, pp 128-133.

Minimizing Liability for Construction Accidents through Good Contracting, W. R. Wildman and T. H. Castelli, Journal of Professional Issues in Engineering Education and Practice, ASCE, October 2004, pp 306-310.

J. P. Doyle and J. P. Doyle, Survive and Thrive Legally, AIPM Conference, ed. B. Hovey and D. G. Carmichael, 1991.

P. M. Donohue, What are the Lawyers Doing to Us, Engineers and Lawyers Seminar, UNSW, 1995.

Consumers and Contracts, pp 318-329, The Law Handbook, Redfern Legal Centre, Sydney, 8th ed., 2002.

M. Ragg, Proof Positive or Negative?, The Bulletin, June 13, 1995, pp. 14-17.

G. M. Peck, Dispute Resolution; The Dichotomy between Proof and Probability, The Australian Construction Specialist, Issue 3/92, pp 21-25, 1992.

Code of Tendering for the Construction Industry, New South Wales Government, Sydney, July 1996, 16 pages.

D. Jones, What Effect is Partnering Having on Claims, pp 141-153, Claims and Disputes, Construction Publications Pty Ltd, 1996, Sydney.

Introduction to Project Alliancing, J. Ross, Presentation to The Institution of Engineers Australia, 17 August 2000, Brisbane, Australia, 18 pages.

Disputes Resolution, from No Dispute, NPWC/NBCC, 1990.

J. M. Antill, The Arbitration of Commercial Disputes, 6 pages.

