

## **Purpose of Admin Law**

- Balance between
  - Accessible and effective justice for aggrieved individuals
  - Openness and accountability of government
  - Quality and consistency of government decision
- And
  - Administrative and fiscal efficiency
  - Cost and complexity in dispute resolution
  - 'collective' public interest and individual interest

## **Judicial Review**

- Standing to seek judicial review
- Grounds for judicial review
  - If executive decision, cannot remake decision, merely say it was invalid
- Scope
  - No review of merits
    - Separation of powers
    - Courts avoid politics
  - Mason J – it is not the function of a court to substitute its own decision for that of an administrator...its role is to set limits on the exercise of that discretion, and a decision made within those boundaries cannot be impugned (Maa v Peko Wallsend)
- Requirements:
  - Court must have jurisdiction
    - Court jurisdiction
      - Constitution
      - Statute
    - High Court – original jurisdiction of s 75(v) – in all matters in which a writ of mandamus or prohibition or an injunction is sought against an officer of the Cth
    - FC – statute – ADJR Act, Judiciary Act 1903
  - Court must accept there is a justiciable issue
    - Nature of power
      - Prerogative power (non-stat executive power)
    - Status of DM
      - R v Toohey; Ex parte Northern Land Council – status of DM is no longer critical in exercise of statutory power.
  - Legislature has not validly excluded court's review
  - Court must have power to grant remedy
    - Common law
      - Certiorari – quash invalid decision
        - Error must be of law
        - Error must appear on the face of the record
        - Does not compel DM to start again
      - Prohibition to prohibit further unlawful action
        - Prohibits impugned DM from doing something illegal (which they are about to do)
      - Mandamus to compel lawful exercise of power
        - Compels performance of public duty