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The growth of administrative law in Australia has continued in an unabated form since the introduction of innovative reforms in the mid-1970s. The centre plank of these reforms was the establishment of the Administrative Appeals Tribunal with follow-on reforms relating to the Ombudsman, judicial review and freedom of information legislation. The impact of these reforms has been vast and significant. *Australian Administrative Law: Fundamentals, Principles and Doctrines* seeks to take stock of the growth and development of administrative law principles. Particular attention is paid to the important cases and key doctrines which provide the theoretical underpinnings of these principles.

In this book, a team of highly respected administrative law scholars and jurists aim to provide a lucid exposition of the relevant case law, principles and doctrines. The book illuminates the fundamental features of Australian administrative law and will prove useful to students and practitioners interested in this field.

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Foreword

The Hon M E J Black AC
Chief Justice of the Federal Court of Australia

The large, complex and evolving field of administrative law is of special importance to lawyers and indeed to all concerned with Australia’s democracy. This is not only because administrative decision-making can, and increasingly does, touch upon almost any aspect of our lives but, more fundamentally, because administrative law is one of the primary means by which our commitment to the rule of law is applied. This commitment to the rule of law may be seen at its most direct in the field of judicial review. As a former Chief Justice of Australia has written:

Judicial review is neither more nor less than the enforcement of the rule of law over executive action; it is the means by which executive action is prevented from exceeding the powers and functions assigned to the executive by law and the interests of the individual are protected accordingly.¹

Australian administrative law has its own distinctive character. Its influences include the Commonwealth’s legislative reforms of the 1970s and early 1980s. These reforms covered a wide field, and included the establishment of a simplified process of judicial review before the newly created Federal Court of Australia. No less importantly, the reforms provided for merits review before a new and independent tribunal of high standing, the Administrative Appeals Tribunal. It would be a serious mistake to underestimate the importance of merits review by tribunals and other non-judicial aspects of administrative law, for tribunals are usually the first and most accessible avenue for Australians seeking review of executive decision-making. The reforms also created the office of the Commonwealth Ombudsman, and the Administrative Review Council to keep the new system under review and the reforms maintained. All this occurred against the rich background of the common law and its institutions and in the constant presence of Australia’s Constitution – often unnoticed but, on occasion, stamping its own authority on the development of this body of law.

In this excellent new book, distinguished scholars from academia, the practising legal profession, and the judiciary explore and explain Australian administrative law, its theories, the ideas and the principles upon which it rests.

The intended readership includes tertiary students and to them I would commend the quality of the scholarship and the enthusiasm for the subject that the writing conveys; as lawyers they will have an important role to play in promoting an understanding of the fundamentals of our system of government.
Administrative law, and its interaction with constitutional law, should be one of their special responsibilities. Also, although students will no doubt concentrate on particular chapters, I would urge them to read and consider the work as a whole, for administrative law is an area in which a clear understanding of the broad field – which the book provides in full measure – is needed for a proper understanding of the individual parts.

I am delighted to have the opportunity of writing the foreword to this very valuable contemporary work on administrative law in Australia.

M E J Black
Owen Dixon Commonwealth Law Courts
Melbourne
19 February 2007
The development of administrative law is a prominent feature of the Australian legal landscape. The importance of this subject is highlighted by the fact that it is stipulated as a ‘core’ subject in the syllabi of many, if not most, law schools. One needs only to peruse the cases reported in the main law reports to appreciate its significance as a large area of legal practice.

In this volume of essays, the contributors examine a number of fundamental topics of practical and doctrinal importance. The contributors (who are drawn from academia, the judiciary and the legal profession) have sought to provide a lucid exposition of the relevant case law and principles and explore the doctrinal dimensions and theoretical underpinnings of those principles.

We hope this volume will be of great relevance and value to tertiary courses in Australian administrative law, the Australian legal system and government. As it will be concerned not only with the lucid exposition of the principles, but also with the scholarly exploration of doctrines and theories underpinning the subject, we expect that the volume will be of great interest to tertiary students, members of the judiciary, practitioners and legal academics.

We wish to record our gratitude to a number of persons who assisted us greatly in bringing this book to fruition. First and foremost we are extremely indebted to Enid Campbell, Emeritus Professor at Monash University and the undoubted doyenne of public law in Australia. Enid generously reviewed all the contributions and provided us with invaluable comments. Jill Henry and Kate Indigo at Cambridge University Press and Carolyn Leslie were most helpful and, fortunately for us, very patient as we sought to complete the editing of the book amidst our many other pressing commitments. We also would like to thank Maryanne Cassar and Audrey Paisley who provided us with efficient and chirpy secretarial assistance and the Monash Law Faculty for providing us with a grant to enable us to organise a symposium where a number of the draft chapters were discussed.

Last, but not least, we are indebted to the Honourable Michael Black, Chief Justice of the Federal Court of Australia, for his encouragement and for writing the foreword to the book.

Matthew Groves and H P Lee
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