

LEGAL BRIEFS

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Legal Briefs
The Journal of the Legal Studies Association of NSW Inc
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The information contained in Legal Briefs is not legal advice and is written for teachers of Legal Studies and the students who study this course in NSW. Opinions expressed in the articles within this journal are not necessarily those of the LSA Committee as a whole or individually.

We welcome contributions!

All contributions will be acknowledged and are treated as the intellectual property of the author(s).

Please send your contributions as Word documents to office@lsa.net.au

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From the Editor's Desk

Keith Thomas – Editor of Legal Briefs

Dear members!

Welcome to the second edition of Legal Briefs for 2022. This is the teaching strategies edition. Thanks very much to our contributors to this edition of Legal Briefs. They are:

- Jennie Mater
- Erin Carney
- myself

Thus, this edition contains 7 articles. The articles, and their location on this LSA website, are listed below along with a short synopsis of each article.

Legal Briefs article title	Author	Topic areas	Article synopsis	Website location
Feature article:				
Research Activity	by Jennie Mater (OLMC Parramatta; LSA life member)	Law in Practice	A scaffold provided for case analysis. PROCESS – Tips for research and scaffold sections: facts, issues, mechanisms and effectiveness and themes & challenges. PRODUCT – engagement, monitoring, student completion of scaffold template. Jennie has provided a most useful sample scaffold of the COVID 19 global pandemic!	Member resources/ Preliminary
Other articles:				
How Effective?	Erin Carney (Finnigan School of Distance Ed)	Skills	This item provides possible criteria for students to judge the effectiveness of the law.	Member resources/ Skills & Revision
Lindt Café Siege Coronial recommendations	By an LSA member	Crime (Bail) and Law Reform (Yr. 11)	Five tasks are set for students to inquire into the Lindt Café Siege Coronial recommendations, focussing on Recommendation #4 Policy concerning bail concessions.	Member resources /Crime
Media articles 2022	Keith Thomas, Cumberland HS	Yr. 11 Technology & the Law and a range of Yr. 12 units	I provide some contemporary newspaper articles, their sources, syllabus relevance and activities.	Member resources/ Technology & the Law

Other articles:				
Legal Briefs article title	Author	Topic areas	Article synopsis	Website location
<i>Using the media file</i>	Keith Thomas, Cumberland HS	Year 11 course	There are many uses for the media file after it has been marked. For Yr. 11: In class – use it in the Resolving Disputes section and it can also be used in the final exam. For Yr. 12: Undertaking additional synopses for articles not covered in the original submission.	Member resources/ Preliminary
<i>LSA Lectures 2022 Additional tips</i>	Keith Thomas, Cumberland HS	HSC course	I listened to Kate Kempthorne's lecture in HSC Exam Skills, Teresa O'Dwyer covered Human Rights and Neil Kusi-Appauh presented on Crime at the LSA lectures in Newcastle in July. I tried to take down / elaborate on the skills/tips they provided that were additional to their notes.	Member resources/ Skills & Revision
<i>Our Economy Activities</i>	Keith Thomas, Cumberland HS	Commerce	Glossary, differentiation, discussion and Activities for the Our Economy unit in Year 9 or 10 Commerce.	Commerce Resources / Our Economy

It is always good to have contributions from our members. The next edition focusses on **Law reform**. We already have a submission: Law Reform in Action - Sexual Consent from Fran Wicks at St Luke's Grammar School. I have been holding this article back for the upcoming Law Reform edition.

If you would like to share an item, please note the style guide and how to submit articles. Such an item could be a teaching idea, an actual lesson, a sequence of lessons, a research or other assessment task and so on.

The **style guide** for **Legal Briefs submissions** is as follows:

LSA Legal Briefs submission style guide

Content:

- Teaching strategies, worksheets, activities, ideas for teaching Legal Studies
- Formal papers exploring an issue / topic area
- Assessment tasks
- Contemporary issues media, reports, statistics
- Conditions, agencies of mechanisms of law reform
- Tips for students regarding writing, integrating, evaluating, assessing, making judgements and so on
- Any useful resource or strategy that works / engages students

Submission format:

- Font: Arial
- Font size: 12
- Font colour: Black
- Layout: portrait
- The less formatting within the article the better

How to submit?

- Email to president@lsa.net.au
- Include your name and your school at start of document

If you have a useful resource for Legal Studies or Commerce that you would like to share, email it to the address above.

Thank you and best wishes!

Keith Thomas.

Law in Practice Research Essay

By Jennie Mater, OLMC Parramatta; LSA Life Member

Process

My approach to this section of the syllabus is usually a blend of ongoing integration as issues arise throughout the course, followed by engagement with a current event or case via a research activity at the end of the course.

The following scaffold was developed to provide students with a template/guide that could be used consistently for the research activity, regardless of the case or event that was being investigated. There are no hard and fast rules for its use as it can be completed individually, in small groups, or as a whole class, depending on the learning dispositions of the students in the current cohort. The amount of time you spend on this activity can be adjusted to suit your needs and circumstances by varying the amount of initial information you provide and/or how you divide up the tasks

Most recently, I completed it as a whole class in controlled **stages**, to ensure that the students were on the right track and remained focused. As a first step we completed just the first three rows of the template, with a particular focus on determining the issue/s raised by the case or event. This is often the most difficult part of the process but is important to clarify the issues at the outset as this determines the direction of the remaining research.

Next, we completed the remaining three sections, in turn. Information was collected by individuals or small groups, and the contributions collated via a shared document to which all had access. The time allowed for completion of each stage was adjusted as required and, through **regular whole class progress checks**, we established whether the focus needed to be narrowed or broadened.

At each stage, the collated information was discussed and evaluated for its suitability for inclusion in a final document that summarised the findings and conclusions of the group.

Depending on the event and the issue/s it raises, this last step might be quite challenging, but the overall goal should be a summary that captures the essence of the case/event and the issue/s, so that students can use it to “evaluate the effectiveness of the legal and non-legal responses to this issue” as stated in the “students learn to” column of the syllabus.

Tips for students during research:

1. Start with credible media reports. These can provide leads to other sources such as NGOs, IGOs, government departments etc.
2. Where possible, confirm information obtained via media reports with the original sources, including official media releases from relevant government departments.
3. Take lots of notes.
4. Record every source from which initial notes, quotes or ideas are drawn.
5. Be on the alert for statistics and opinion pieces that could provide ideas for evaluating effectiveness.
6. Check useful websites such as BOCSAR, Law Reform Commission (NSW and Australian), various sections of the NSW Department of Communities and Justice (Justice NSW) site, the NSW and Commonwealth parliament sites, NSW Legislation, NSW Case law, the Federal Register of Legislation etc.

Law in Practice

Use the following table to guide your research into the case/event you have identified. Record information in a separate document and then summarise the key points here. Keep a record of your sources as you gather your information.

Case/Event		
Facts (<i>provide brief background to the case/event</i>)		
Issues (<i>what issues does this case/event raise?</i>)		
Responses/Mechanisms	Legal	Non-Legal
(<i>what were the responses to the issues raised by this case/event? ie how does the law operate in practice in this case/event? NB: responses/mechanisms could include legislation, regulations, inquiries, media reactions, recommendations etc.so you should identify the LCMIDs where possible</i>)		
Effectiveness (<i>how effective were/are these responses? Refer to relevant criteria listed in syllabus p16</i>))		
Themes and Challenges (<i>which themes and challenges are relevant in relation to this case/event?</i>)		

Product

In 2021, although conscious of pandemic fatigue, we decided to focus on the COVID-19 pandemic. We quickly discovered there were so many issues related to the pandemic that we needed an overarching issue which could capture the many sub-issues. Accordingly, we determined that the overarching issue was “How should the state respond in the management of a situation such as the COVID 19 pandemic?”.

Engagement levels were high throughout this activity, facilitated through careful monitoring of students, and the assignment of specific research tasks to particular students based on their level of literacy, comprehension, and research skills. The final completed template is a (somewhat) edited version of the ideas and research generated by the students in my Year 11 class in 2021. I have added a few recent updates where appropriate. The final product could no doubt be improved, and more content added, but it does demonstrate the utility of the template and the wealth of information it generated.

Final word

I used the template again for the second contemporary issue, which in 2021 was “How can/should the legal system address the issue of death or serious injury caused by alcohol-fuelled violence?”.

This was prompted in part by the lifting of the alcohol lockout laws in March 2021 which reignited media attention and thus kept the issue contemporary. By framing the issue so broadly, the students were able to research not only the restrictions on the sale and consumption of alcohol, but also the introduction of the so called “one punch laws” following the deaths of Thomas Kelly and Daniel Christie.

Once again there was a wealth of material available which clearly demonstrated the operation of the law in practice.

Thus, while researching these two contemporary issues, and so covering the content specified in Part III, some of the other content, concepts, and themes and challenges we revised along the way included:

- the operation and influence of statute and common law
- aspects of law reform
- the concept of justice
- the balancing of the rights of the individual with the needs of the state
- the relationship between rights and responsibilities

Needless to say, the students’ research skills were both challenged and developed.

The research into both of these issues also allowed for some preliminary exploration of concepts to be covered in more depth in the HSC course. Consequently, we also began to consider the nature of human rights and some aspects of sentencing and punishment including penalties. It was therefore an extremely valuable exercise which I hope you find useful.

Law in Practice

Use the following table to guide your research into the case/event you have identified. Record information in a separate document and then summarise the key points here. Keep a record of your sources as you gather your information.

Case/Event	COVID 19 global pandemic
Facts <i>(provide brief background to the case/event)</i>	New virus dubbed COVID-19 originated in China and quickly spread around the globe. Virus causes serious respiratory symptoms and can lead to death. Highly transmissible. Now 3-4 different variants, later variants more contagious than original.
Issues <i>(what issues does this case/event raise?)</i>	<p>Overarching Issue: How should the state respond in the management of a situation such as the COVID 19 pandemic?</p> <p>Sub-issues:</p> <p><u>Human rights (freedom)</u></p> <ul style="list-style-type: none"> ○ Should the state be able to <ul style="list-style-type: none"> ■ impose restrictions on movement? Eg. Lockdown, isolation, curfew, travel restrictions, hotel quarantine etc. ■ mandate specific behaviours? eg mask wearing, vaccination, social distancing, gathering in groups ○ Should business operations be restricted in order to keep society safe? ○ Should employers be able to mandate vaccinations? <p><u>Human rights (discrimination)</u></p> <ul style="list-style-type: none"> ○ Should LGAs be treated differently? ○ Should there be differences in freedoms/restrictions for vaccinated versus unvaccinated people? <p><u>Border restrictions- suitable for peace, order and good government</u></p> <ul style="list-style-type: none"> ○ Should individual states have the authority to implement border restrictions? ○ Should the Federal Government be able to stop states from closing borders? ○ Should nation states close their borders? ○ To what extent should Australia consider international relations when managing a pandemic? <p><u>Power of the state generally</u></p> <ul style="list-style-type: none"> ○ To what extent should the government, and other statutory authorities, have power to manage a situation such as the COVID 19 pandemic? ○ Should the government be able to ban protests?

Responses/Mechanisms	Legal	Non-Legal
<p><i>(what were the responses to the issues raised by this case/event? NB responses/mechanisms could include legislation, regulations, inquiries, media reactions, recommendations etc.; how does the law operate in practice in this case/event?)</i></p>	<p>Special Commission of Inquiry into the Ruby Princess established 14 April 2020, held six weeks of hearings during June/July 2020 and produced its final report in August 2020.</p> <p>Public Accountability Committee self-referred on 27 March 2020 an ongoing inquiry into the NSW Government's Management of the COVID-19 pandemic most recent hearings involved robust questioning of the Health Minister Brad Hazzard and the Chief Health Officer Kerry Chant in early August.</p> <p><u>Legislation - NSW</u></p> <p><i>COVID-19 Legislation Amendment (Emergency Measures) Act 2020</i> (NSW) – amended a number of Acts to implement emergency measures as result of the COVID 19 pandemic. (Commenced on day of assent – 25 March 2020). First piece of legislation passed – made changes to a great many pieces of legislation that covered matters likely to be affected by COVID including the conduct of various aspects of the criminal justice system. Most significant amendments were the change to the <i>Public Health Act 2010</i> including clarifying that the existing powers under the Act apply to people with COVID-19 but also granting extra powers including that police have the power to arrest a person who is in breach of a COVID-19 order and that police can issue penalty notices under this Act. (Note: all of the amendments to the <i>Public Health Act</i> originally had sunset clauses – provisions repealed 12 months after commencement – but these have since been repealed and the powers are permanent)</p> <p>There have been similar pieces of legislation subsequently passed to amend and/or add to the amendments.</p> <p><i>Public Health Act 2010</i> (NSW) – this is the Act that gives authority to the Health Minister to issue orders (public health orders) that are considered necessary to deal with any risk to public health. The Act allows for a very wide range of orders to be made including to refrain from specified conduct (s62). It also specifies a range of offences, including making is an offence not to comply with a public health order and specifying a maximum penalty of 100 penalty units or imprisonment for 6 months or both. NB one penalty unit is currently = \$110</p> <p><u>Public Health Orders (PHOs)</u></p> <p>These have covered a range of areas including:- Wearing masks <i>Public Health (COVID-19 Mandatory Face Coverings) Order (No 3) 2021</i></p>	<p>National Plan to transition Australia's National COVID-19 Response – National Cabinet</p> <p>Provision of vaccines (free) to protect population</p> <p>Education campaigns re social distancing, hand washing, testing, vaccinations etc.</p> <p>Dedicated govt. websites Aust and NSW</p> <p>Regular communication eg daily briefing for media by NSW Premier</p> <p>Anti-lockdown protests – 24 July and Aug 2021 as reported in BBC NEWS; Opinion on the July protests</p> <p>Proposal to have lotteries and other incentives to encourage vaccination. Media report</p> <p>Social media and mainstream media reporting – various perspectives and levels of truth</p> <p>NGOS</p>

Gathering and movement *Public Health (COVID-19 Gathering Restrictions) Order (No 2) 2021 [NSW]*
Self-isolation *Public Health (COVID-19 Self-Isolation) Order (No 2) 2021*
Quarantine (air and maritime etc). *Public Health (COVID-19 Air Transportation Quarantine) Order (No 2) 2021; Public Health (COVID-19 Maritime Quarantine) Order (No 2) 2021*
Latest amendments in response to Delta Outbreak *Public Health (COVID-19 Additional Restrictions for Delta Outbreak) Order (No 2) 2021*
NB These public health orders were amended repeatedly with some provisions in place for as little as two days.

Legislation – Commonwealth

Biosecurity Act 2015 (Cth) – s 475 allows the Cth Health Minister to seek approval from the GG to exercise extraordinary powers (without need for parliamentary debate) to deal with emergency public health threats. Accordingly, in March 2020 the Minister made a biosecurity emergency declaration in relation to the threat posed by COVID-19 which allowed the Cth to take steps to prevent or control the spread of COVID. Such declarations typically operate for 3 months but since this initial declaration, it has been repeatedly extended, with the last lapsing on 17 April 2022. (see [Media release](#))

Common law

There have been at least two cases of note:-

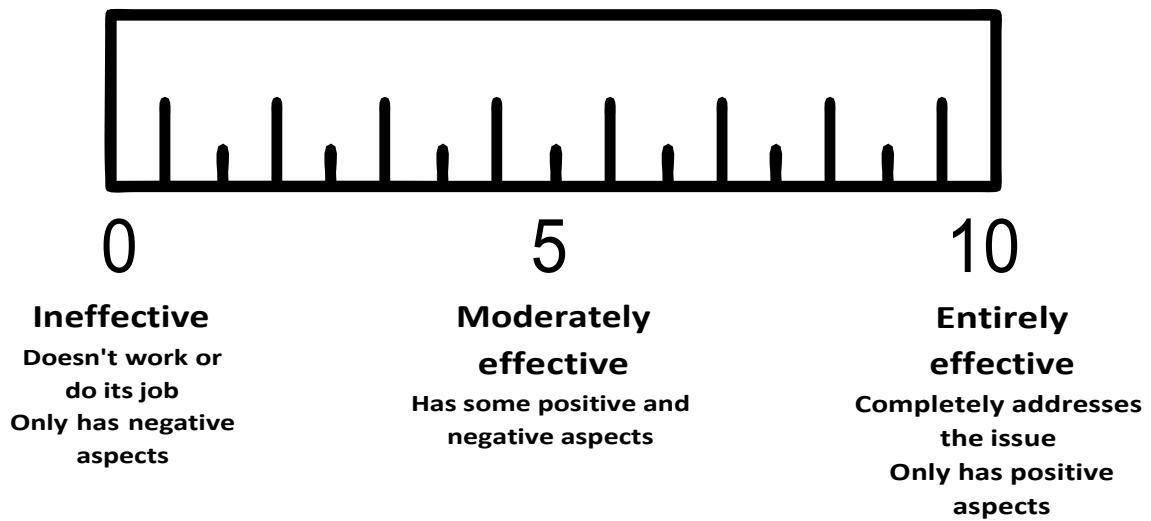
1. *Palmer v Western Australia* [2021] HCA 5 – After the WA govt closed the state borders early in the pandemic, Clive Palmer, who has significant business interests in that state, was denied an exemption. He then took the state of WA to the High Court claiming that their closure of the border was a breach of s 92 of the Constitution. This section states “.... trade, commerce, and intercourse among the States, ... shall be absolutely free” *which has been interpreted previously by the High Court to include free from discrimination*. The High Court ruled that the border closure did not infringe s92 and so the WA law was not invalid. Palmer was ordered to pay costs. See [judgement summary](#) 24 Feb 2021
2. *LibertyWorks Inc v Commonwealth of Australia* [2021] FCAFC 90 – this case was a challenge to the authority of the Commonwealth to restrict overseas travel through a Determination made in accordance with the human biosecurity declaration that in turn was made under the

	<p><i>Biosecurity Act</i> 2015 in response to the COVID -19 pandemic. The Determination, made on 25 March 2020, and still in place until at least 17 Sept 2021, prevents people from leaving Aust unless they have an exemption, which will only be granted under “exceptional circumstances”. LibertyWorks applied to the Federal Court seeking a declaration by the Court that the Determination was “invalid by reason of inconsistency with, or of lacking authority in, the [Act]” (meaning the Biosecurity Act). Note: This is an example of a judicial review under administrative law. The Court held that the “Determination is not invalid”. The application was dismissed and LibertyWorks were ordered to pay costs. See here for full judgement.</p> <p>There have been a number of other cases where individuals have challenged the decision to deny them exempt status, but these two were the most newsworthy.</p>	
<p>Effectiveness (<i>how effective were/are these responses? Refer to relevant criteria listed in syllabus p16</i>))</p>	<p>Rapidity with which PHOs have been and continue to be amended makes them very responsive to society’s needs. However, it also makes it difficult for people to stay up to date with the latest rules, which therefore affects compliance.</p> <p>Non-compliance with PHOs became an issue during the Delta outbreak and police resources were increased in order to better manage enforcement once the more contagious Delta strain began circulating. Penalties were also increased. However, as of April 2022 75% of fines were overdue with a total of around \$42 million still to be paid by NSW residents (SMH 22 May 2022). Solicitors from Redfern Legal Centre who have been involved in cases challenging some of the fines have noted that many were not lawfully issued, and that police would also have struggled to keep up with the rapidity with which the PHOs were changing, resulting in wrongly issued fines. The need to challenge these, either by requesting an internal or judicial review, while ultimately enabling justice to be achieved, may well be a waste of resources (time and money) and some vulnerable people may not even be aware that they have these options thus limiting access to justice.</p> <p>The division of powers has made management of COVID-19 quite confusing and somewhat difficult. Health is a residual power under the Constitution. The quarantine orders are being made under the <i>Public Health Act 2010</i> (NSW) rather than under Federal legislation, despite the fact that quarantine is actually a Commonwealth power under s52 of the Constitution. Much of the Commonwealth legislation to date during COVID has centred around biosecurity, welfare payments, approval of vaccines, migration, Medicare payments, immunisation register etc.</p> <p>Restrictions on international movement especially into Australia, have been hampered by poorly controlled hotel quarantine, hence reducing the effectiveness of the restrictions.</p>	<p>National Plan to transition Australia’s National COVID-19 Response – National Cabinet – although coming out of National Cabinet, consisting of the State and Federal leaders, and as agreed by those leaders, it is still contingent on continued cooperation and agreement of States to follow the plan. Constitutional division of powers means plan cannot be mandated in its entirety across the states. In addition, the plan is not set in concrete and is subject to change. Will it work? – many say no; here is one view</p> <p>Misinformation circulating on social media- the combined effect of anti-vaxxers, conspiracy theorists etc. as well as loss of trust in government, has hampered the effectiveness of the vaccine rollout. Media report: push for new laws to tackle misinformation SMH 25 Jan 2021 Media report: who decides what’s too dangerous to hear SMH 8 Aug 2021</p>

	<p>The two court cases described above, in dismissing challenges to the validity of legislation, serve to strengthen the legislative response and reinforce parliamentary sovereignty by referring to the clear intentions of Parliament in creating the emergency powers in the <i>Biosecurity Act 2015</i>.</p>	
<p>Themes and Challenges (which themes and challenges are relevant in relation to this case/event?)</p>	<p>The relationship between, justice, law and society. – clearly demonstrated in the restriction on individual rights in order to protect the interests of society as a whole.</p> <p>The development of and reform of law as a reflection of society. – while it could be argued that law has been developed and/or reformed as a reflection of society, particularly its needs in the face of COVID, a better argument might centre around the pace of the reform.</p> <p>The importance of the rule of law – some have questioned whether the powers under some laws are in fact undermining the rule of law eg prominent human rights lawyer Geoffrey Robertson QC commented that the powers under the Biosecurity Act undermined the rule of law because they designate certain actions as criminal despite not having been debated in parliament. See media report. The Rule of Law Institute has also put together some resources to help address the question of whether the rule of law is being upheld during the pandemic. (<i>Students need only read to the end of the section prior to the case studies for the purpose of this inquiry.</i>)</p> <p>The responsiveness of the legal system in dealing with issues – the rapidity with which laws were introduced and have been amended as circumstances have altered indicates a high level of responsiveness in relation to managing COVID-19 but that speed has also created other issues.</p> <p>The effectiveness of legal and non-legal mechanisms in achieving justice for individuals and society – the entire issue invites consideration of the effectiveness of the range of mechanisms in the achievement of justice for individuals and society. There are differing perspectives on whether the various restrictions imposed on people are just or not; As LibertyWorks President Andrew Cooper said in an email, “... often things that are legal are not necessarily just.”</p>	

How Effective?

By Erin Carney, Finnegan Distance Education



Possible criteria

Responsiveness

How well does it respond to an issue or need? Is the issue or need addressed or is it still an issue?

Efficiency

How quickly can it address issues? Is it cost effective? Does it reduce the amount of time and money involved?

Accessibility

How easily can it be used? Are there limits to who can use it or how it can be used?

Rights

How well does it address or protect the rights of those involved? Does it address/protect some more than others?

Enforceability

Is it enforceable? How easily or well can it be enforced? Are there limitations to it being enforced?

[illegible]

Lindt Café Siege Coronial

Recommendations

By an LSA member

View the Lindt Café Siege Coronial recommendations and respond to tasks 1-5.

<https://www.nsw.gov.au/news/government-response-to-state-coroners-report-inquest-into-deaths-arising-from-lindt-caf%C3%A9-siege>

1. How many of the recommendations have been complete?
2. Propose reasons why are the other supported recommendations not been completed?
3. In pairs or groups, judge 3 recommendations and comment on how such recommendations could mitigate such incidents from being exacerbated in future?
4. In reference to bail, given that **Man Monis** was on bail when he committed this offence, view Recommendation 4:

4. Policy concerning bail concessions

I recommend that the DPP develop a policy for overseeing lawyers' exercise of the discretion not to oppose bail that takes into account the seriousness of the offences involved; the experience of the prosecutor appearing; and the views of the police officer in charge of the investigation, insofar as those views are based on facts on relevant to bail determinations.

Completed The DPP has implemented a policy – the Bail Policy – which addresses the issues identified in the recommendation.

5. Research into the DPP office's new policy. Prepare a key-point summary of your findings.

A Collection of Media Articles From 2022

By Keith Thomas, Cumberland High School

Once again, 2022 has been another year in which the media has contained so many relevant reports for Legal Studies students. Here is just a selection. I have provided the syllabus reference and an activity for each article.

Title / Overview	Source and date	Syllabus Reference	Activities
A Wedding photographer let down bridal couples. This is what happened next.	https://www.smh.com.au/business/consumer-affairs/a-wedding-photographer-let-down-bridal-couples-this-is-what-happened-next-20220401-p5aa38.html SMH May 15 th , 2022	HSC Consumers 1. The nature of consumer law <ul style="list-style-type: none"> contracts 2. Consumer redress and remedies <ul style="list-style-type: none"> awareness and self-help state government organisations the role of the media 	Consider this case in terms of a contractual breach. What sort of redress could be gained? Research into and report back to the class on similar consumer scams
Juries are subject to all kinds of biases when it comes to deciding a trial	https://theconversation.com/juries-are-subject-to-all-kinds-of-biases-when-it-comes-to-deciding-on-a-trial-176721 The Conversation March 1, 2022 (Contains a 2:32 embedded video)	HSC Crime Topic 3: Criminal trial process <ul style="list-style-type: none"> the role of juries 	Students debate / undertake a Plus Minus Interesting (PMI) on each of the 3 jury biases outlined.
When self-driving cars crash, who's responsible?	https://theconversation.com/when-self-driving-cars-crash-whos-responsible-courts-and-insurers-need-to-know-whats-inside-the-black-box-180334 The Conversation May 25, 2022	Yr. 11: Part II: The individual and the law 3. Contemporary issue: The individual and technology	Consider US cases and the relevance of the Trivago case in answering the question posed by the title of the article.

Title / Overview	Source and date	Syllabus reference	Activities
Rent Squeeze	https://iview.abc.net.au/video/NC2201H121S00 7.30 report 1/8/2022 Elias Clure reports that around Australia rents are rising. Many women are falling into homelessness and many elderly Australians will be renting for the rest of their lives. Social housing in Australia is extremely lacking. Michael Fotheringham (National Housing and Urban Institute) says that the Government's rent assistance system is in need of urgent reform.	HSC Shelter 1. Contemporary issues concerning shelter Issues that must be studied: <ul style="list-style-type: none"> • affordability • discrimination • homelessness • social housing including public housing, cooperative housing, and community housing. 	Quote from 7.30 Report website: "As rents across Australia soar, government rent assistance is falling behind". Discuss this statement.
UN Committee rules anti-lesbian sex laws breach human rights in landmark decision	https://theconversation.com/un-committee-rules-anti-lesbian-sex-laws-breach-human-rights-in-landmark-decision-179936#:~:text=On%20Wednesday%2C%20a%20United%20Nations,should%20immediately%20repeal%20these%20laws. The Conversation, March 2022	HSC Human Rights The nature and development of human rights <ul style="list-style-type: none"> • formal statements of human rights Investigate a contemporary issue which illustrates the promotion and/or enforcement of human rights. <ul style="list-style-type: none"> • Issues could include: <ul style="list-style-type: none"> - discrimination against women 	What occurred in the Flamer-Caldera v Sri Lanka case? Follow the developments in this case in terms of human rights for lesbians in Sri Lanka.
Scaffolding company pleads guilty	https://www.safework.nsw.gov.au/news/safework-media-releases/scaffolding-company-pleads-guilty NSW Safe Work	HSC Workplace 2. Regulation of the workplace <ul style="list-style-type: none"> • the roles of: <ul style="list-style-type: none"> – governmental organisations 3. Contemporary issues concerning the workplace <ul style="list-style-type: none"> • safety 	Assess the response of the NSW government to the death of young worker, Christopher Cassaniti and another worker.

Using the Media File

By Keith Thomas, Cumberland High

I have been setting my Legal Studies students media files for as long as I can remember. They are an excellent assessment task. Students are asked to find a range of relevant, contemporary articles. These articles are supplied with article summary tables. In Year 11, I require the students to prepare two synopsis (for two different articles) and in Year 12 it becomes four synopsis (for four different articles).

Now that doesn't mean that once that media file is submitted, marked and feedback given that it is put away until glanced at before the final exam or HSC trial.

Some examples of how the media file can be utilised are provided below.

Year 11

Use the media file in the Resolving Disputes section.

Here is a sample scaffold:

Use your Year 11 Legal Studies media file.

1. Select your best article on Resolving Disputes.

Article name	
Date	
Source	

2. Using qualitative judgements, explain why this chosen article is better than the other one on this topic area.

3. Provide a brief summary of the key aspects of resolving disputes from the article.



Use the media file in the actual final exam.

I set a 10 mark question in the Year 11 Legal Studies final examination. I place media files on student desks as I place the papers on their desks in the Hall. *Give the students 2 desks each, similar to the old Geography exams with broadsheets.*

Here is a sample 10 mark question:

FOR QUESTION 1, CANDIDATES ARE ADVISED TO USE THEIR LEGAL STUDIES' MEDIA FILE. (10 marks)

With reference to a media file item complete the following tasks.

State the name of the article referenced:

(a) **Identify** the **legal issue/s** described in this media item. **(1)**

(b) **Outline** how the media item relates to a specified Year 11 Legal Studies unit. **(2)**

UNIT:

(c) **Explain** how the media article relates to ONE key course theme and challenge.

(3)

(d) **Evaluate** the effectiveness of the law, or otherwise, in dealing with the identified issues.

(4)

For Year 12:

- *Use the media file in class for students to undertake an **additional synopsis** or two on articles they didn't write a synopsis for in the original submission. This is especially good for articles from the second option, which is probably only being taught after the media file has been submitted.*
- **Set a media file synopsis for homework.** *This is a meaningful homework task that can be submitted and marked. This is especially good for students who didn't attain full marks for their synopsis in the original media file submission.*

I hope that at least ONE of the above strategies may be of use to any member who uses a media file assessment in Legal Studies.

HSC Exam Skills and the Core Units: Human Rights and Crime

By Keith Thomas, Cumberland High School

This article is a series of summary notes with key tips and short activities (TASKS) arising from presentations by the LSA to HSC students at our student lectures at Callaghan Senior Campus in Newcastle in July 2022. In taking these summary notes, I have tried to capture key points / examples / tips given by the presenters that may not have been in their slides or fully elaborated upon in the slides. The topic areas covered are HSC exam Skills and the Core Units: Human Rights and Crime. If you were not able to attend the lectures in Westmead or Newcastle and you would like a copy of the slides to assist you in your study for the HSC, they are available for purchase for \$40 by contacting lsa.admin@ptc.nsw.edu.au.

HSC Exam skills presented by Kate Kempthorne (LSA)

PRE-EXAM

- Your study notes – should cover the whole syllabus. Use mind maps.
- Practise – reading / annotating / marking sample answers / past papers.
- Know the syllabus- that's what the Exam Committee use to make up the exam.

DURING EXAM

- Reading time – use it! Essay selection and plan in your head.
- Start writing – essay plans (content, evidence/support, QJs, T&C). Plan in the writing booklets.
- Directive terms!
- Timing is critical.
 - ✓ Have a time plan. **TASK! Work out your own time plan for the HSC legal Studies exam.**
 - ✓ Time yourself with a couple of sets of multiple choice questions from NESA and then know how long you will need, especially if getting a high score in practice.
- Tick off work - DON'T cross it out!
- ATQ (Answer The Question) not provide a pre-prepared answer. Engage with the Question
- **MULTI CHOICE. Human Rights and Crime.**
 - ✓ Perhaps one minute per question.
 - ✓ DON'T RUSH!
 - ✓ Range of difficulty: Q1 & Q2 Highly accessible Q17-20 Most difficult (Band 5/6)
 - ✓ The 5 Human Rights questions can be scattered anywhere between the 15 Crime Qs.
 - ✓ Process of elimination
- **SHORT ANSWERS. Human Rights.**
 - ✓ Cues: Directive term (how to answer), mark, space / lines provide.
 - ✓ If asked for an example, provide an example. Eg: Q23 2021 HSC.

- ✓ Know your contemporary issue! Eg: Q23 2019 HSC. How effective? Informed judgement (support, contemporary examples, qualitative judgements).
- **CRIME ESSAY**
 - ✓ Marked out of 15. You should write an answer between 4-6 pages in length.
 - ✓ The rubric! To access the top mark range, students need to present a logical, structured response (introduction, body, and conclusion) with support / evidence (cases, laws, media items, statistics, quotes, international law, reports and so on)
 - ✓ Legible work always helps!
 - ✓ There is ONLY ONE question.
 - ✓ If a specific topic question arises – stick to that area of the syllabus
 - ✓ If it is a broad question – choose a wide-range of aspects from across the 6 Crime 6 topics that best fit the Question.
 - ✓ If there is stimulus, such as a quote – engage with it. Eg: Q25 2021 HSC.
 - ✓ Write whole or part essays and ask your teacher for feedback.
- **OPTIONAL ESSAYS. Family, Consumers, Indigenous Peoples, Global Environmental Protection, Shelter, Workplace or World Order.**
 - ✓ Minimum 45 minutes per essay.
 - ✓ Marked out of 25, which equates to approx. 7-8 pages.
 - ✓ Choose the question that you feel most confident in answering for each optional essay.
 - ✓ Choose wisely, based on what you have prepared for, not based on what you guess will be marked up.
 - ✓ A strong thesis to be set out in the introduction.

NOW: TASKS!

- Review past papers!
- Ensure summary notes are in order.
- Write Human Rights short answers to the 5-7 mark questions.
- Use sample responses from the HSC workbooks.
- Know your support (integrate that into summary notes).

Human Rights presented by Teresa O'Dwyer (LSA)

- **Know your syllabus** ... themes and challenges are important!
- **It is important to understand the evolution of HR over time.** Eg: Magna Carta limiting the power of the king.
- **TASK!** See “Important stages in developing the idea of Universal HR” – 4 key Qs are proposed. Use the “abolition of slavery” example to apply to those 4 Qs.
- **Modern slavery.** See the 2018 map.
- **Trade unionism.** Be aware of relevant developments here.
- **Universal suffrage.** Look at the recent US Presidential election of an example of attempts to prevent citizens from voting and also Israeli elections preventing Palestinians from voting.
- **Universal education.** Be aware of relevant developments here.

- **Self-determination.** This aspect is often not well understood by HSC students.
- **Environmental rights.** Assessed in the 2021 HSC exam for Legal Studies. **TASK:** Go to this question. Look up the NESA sample answers and marking criteria.
- **Peace rights.** Don't over think this third generation right. The Russian invasion of Ukraine at present sees concern around first generation rights (right to life, safety) with not much thought about environmental rights.
- **Formal statements of HR.** You need to know the UDHR and the twin covenants and any international agreements that are relevant to your contemporary issue. NB The UDHR doesn't protect HR.
- **Twin covenants** – use the excellent slide on these two.
- **Promoting & Enforcing HR.** Examples of Rwanda, Cambodia, Darfur.
- **TASK:** Define state sovereignty.
- How Australia treats refugees and First Nations people needs to be considered in line with state sovereignty.
- **Know the roles of UN, IGOs, NGOs, media.** NB: The media can only promote HR issues (not enforce) and build political will and eventually achieve legislative change.
- **Examples are really important** even if not asked for. An example can mitigate a less than perfect definition or explanation.
- **Narrow focus of ICC.** Be aware of this.
- **The Australian constitution is also limited in terms of HR protections.**
- **Statutory protections.** **TASK:** Assess how successful or otherwise 3 different statutory protections are.
- **Common law cases,** eg: Teoh and Toonen.
- **Legal and Non-Legal responses.** Non-Legal responses are more about promotion. They may support/facilitate the legal response. Conditions that give rise to law reform, such as changing social values, can lead to legislative change especially through a change of government.
- The Anti-Slavery Project and Project Respect. **TASK** – Look up these organisations.
- Amnesty International. A salient source of contemporary (and very sad) cases.
- **Rights of the Child.** Arbitrary detention of children not enacted as Australia would then not be able to put families with children into detention.
- **TASK:** Use the slide on “Contemporary HR Issue – Legal responses” (based on Modern Slavery) as a model for legal responses for your contemporary issue.

HSC Crime presented by Neil Kusi-Appauh

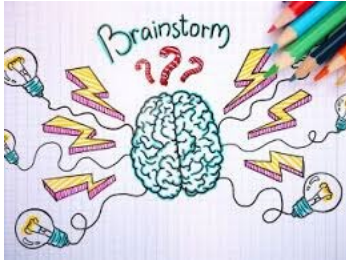
- **Does the criminal law achieve justice?** To some extent! Positive: eg: consent law reform and changes to provocation – positive. Also, it took a long time to get there and have the reforms gone far enough?
- **PRINCIPAL FOCUS:**
 - ✓ Processes and institutions (criminal law, police, courts)
 - ✓ Tension – hard to attain a happy medium. Victims, offenders, society. What is a crime? Bail presumptions, Sentencing – huge tension.

- **Crime: 15 multiple choice and mandatory essay (NO choice) – students have to engage with the question hence it is vital!**
- **Themes and challenges:**
 - ✓ **Discretion** – examples of discretion being applied?
 - ✓ **Compliance** – outdated laws?
 - ✓ **Moral and ethical standards** – all of crime relates here
 - ✓ **LR**
 - ✓ **Balances rights**
 - ✓ **L and NL** – doesn't have to be a 50/50 response, but non-legal measures **MUST** be covered, e.g.: in victim's rights
- **LEARN ABOUTs and LEARN TOs – TASK: Prepare a summary for both.**
- **Rubric – a heads up on how the essay will be marked.** ATQ NOT the Q you wanted.
- **An example essay on bail.** Bail – conditional release pending trial. Implications of granting bail or not. Restrictions as a result of the 2014 amendment, community protection ensures bail is now harder to attain. Provide an argument, backed up with amendments, cases, a media article, a secondary reading from parliament or BOCSAR research / statistics / assertions. Make informed judgments. Try to: plan and allocate 35 minutes to write the essay.
- **2011 HSC Crime Q mean 7.37/15 Explain the tension between community interests and individual rights and freedoms.** Develop arguments and back up your key points.
- **2012 HSC Q mean 7.3/15 To what extent are courts the only means of achieving justice - ONLY was the key word.** What is criminal? Policing? Diversionary programs? Post-sentencing? There was so much more than courts (or even tribunals) to write about.
- **2013 HSC Q mean 6.95/15 assess the role of discretion in the sentencing and punishment of offenders.**
- **2014 HSC Q mean 7.36/15 To what extent does the CIP balance rights? ATBQ.**
- **2015 HSCQ mean 5.99/15** How effective are domestic and international measures in dealing with transnational crime. A very narrow Q. Drug offences, slavery, crimes against humanity could have been covered. Marking was generous. Brainstorm transnational crime. Roll your sleeves up and work- get something on the page!
- **2016 HSC Q mean 8.12/15 to what extent must the CJS treat young offenders.** **MUST** is the key word. Convention on Rights of Child, imprisonment last resort, least restrictive option, adult present for questioning. However, for driving they shouldn't be treated differently. This would be balanced.
- **2017.** Can talk more about bail.
- **2019.** Post-sentencing parole, extension supervision, rehab programs, etc.
- **2021 HSC Q mean 7.67/15. Achieving justice through criminal processes and institutions (Principal Focus).**
- **Quality responses require THINKING!**
- **CRIME PREVENTION**
 - ✓ Bail
 - ✓ Lock out laws
 - ✓ Impacts on victims and families
 - ✓ Expensive prison sentences
 - ✓ Re-integration? High recidivism rates
 - ✓ Focusses on causes of criminal behaviour rather than punishing someone into being good

- ✓ Law Reform (T&C)
- **Issue: Alcohol-fuelled violence: The lead into the “One Punch laws” R v Loveridge.**
Legislative change – sentence on Crimes Assault and Intoxification Act (NSW)
 - ✓ Mandatory sentences (8 years) removes judicial discretion.
 - ✓ Message being sent: alcohol-fuelled violence not ok.
 - ✓ View lock out laws summary slide. **TASK:** Use this sort of table for other Crime issues.
- **POLICE POWERS LEPRA. TASK:** Teachers who attended the LSA Conference in 2022 may have notes/information from Dr Vicky Sentas, Senior lecturer, School of Law, UNSW. Her presentation is available on the LSA website. There have been articles in recent Legal Briefs on this topic area.
- **SENTENCING AND PUNISHMENT.** 95% plead guilty. 55% of those who plead not guilty are found to be guilty.
- **TASK:** Get some quotes ready, eg: from former DPP Nicholas Cowdery, NSW Attorney General Mark Speakman, new DPP Sally Dowling SC or a BOCSAR representative.
- **Incarceration** – some offenders need to be in prison. **“Tough and Smart justice reforms”.**
Task: Research into these reforms- be up-to-date.
- **Statistics:**
 - ✓ 61.43% of prisoners in NSW in there for under 5 years.
 - ✓ 43.4% of prisoners sentenced to less than 6months – 2/3 reoffended.
- **TASK:** Know the new sentencing regime.
- **The impact of the 2018 sentencing reforms on reoffending BOCSAR 22 March, 2022** – new laws do not appear to have reduced reoffending. “The move away from imprisonment to community-based sentences is a good one but must be adequately resourced”. A quote from Neil.
- **Multiple choice tips:**
 - ✓ Read the Q carefully, underline the key words
 - ✓ Process of elimination
 - ✓ Don’t agonise
 - ✓ Don’t leave an answer empty
- **PERFORMANCE BAND DESCRIPTORS. TASK:** If you are not familiar with these - look up the Band 6 Performance Descriptors for Band 6 in Legal Studies.

Our Economy Activities

By Keith Thomas



What do you Know About our Economy???

1. Brainstorm answers from the class:

✚ _____

✚ _____

✚ _____

✚ _____

✚ _____

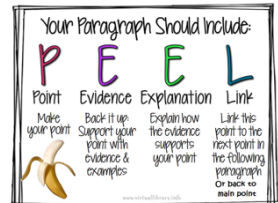
✚ _____

✚ _____

✚ _____

✚ _____

2. Use 3-5 of the points from above to write a PEEL paragraph about the description of the Our Economy unit.



3. Complete the Our Economy glossary.

Undertake research to provide an economic definition of these terms.

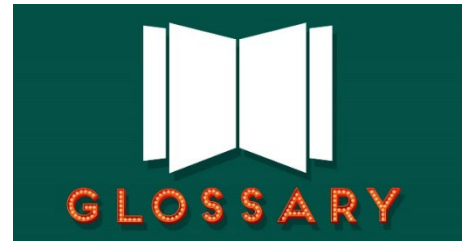
- **Productivity**

- **Economic growth**

- **Standard of living**

- **Environmental sustainability**

- **Unemployment**



- **Income distribution**

- **Macroeconomic policy**

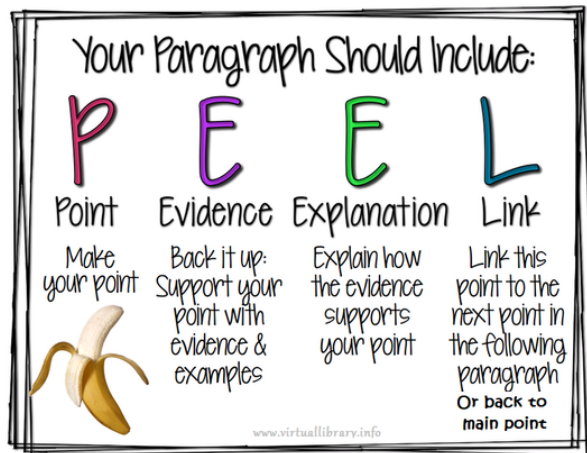
- **Fiscal policy**

- **Microeconomic policy**

- **Inflation**

- **Monetary policy**

4. Use 5-6 of the definitions from above to write a PEEL paragraph about the description of the Our Economy unit.



5. Differentiate between macroeconomic policy and microeconomic policy.

6. What might be some other policy areas an economy may need to address?

Include a picture and a meaning!

Picture	Indicator	Meaning
	standard of Living	
	Economic Growth	
	Income Distribution	
	Environmental Sustainability	

Our Economy



A student:

- applies consumer, financial, economic, business, legal, political and employment concepts and terminology in a variety of contexts
- analyses the rights and responsibilities of individuals in a range of consumer, financial, economic, business, legal, political and employment contexts
- analyses key factors affecting decisions
- evaluates options for solving problems and issues
- researches and assesses information using a variety of sources
- explains information using a variety of forms
- works independently and collaboratively to meet individual and collective goals within specified timeframes

Content focus

Students investigate Australia's place in the global economy, measurement of economic performance, trade patterns, the impact of changes in our economy and the implications of these changes for consumers, businesses, and broader society. They investigate global influences on Australia's economy.

Skills to be integrated in this topic as appropriate: developing questions, gathering and processing relevant information, analysing familiar and new situations, evaluating options, developing and implementing plans, developing evidence-based conclusions/decisions and reasoned arguments, working independently and collaboratively.

Content

Performance of the Australian economy

Students:

- examine the indicators of, and influences on, the performance of the Australian economy, including:
 - ways of assessing the performance of the Australian economy, eg standard of living, economic growth, income distribution and environmental sustainability
 - government economic policy tools – macro (monetary policy/fiscal policy) and micro (trade, education, productivity)
- research the performance of the Australian economy using key indicators, including:

- economic growth rates, unemployment trends, inflation rates and sustainability indexes
- possible reasons for its performance
- a comparison of its performance with one other economy in the Asia region

International Trade and the Australian Economy

Students:

- investigate Australia as a trading nation and its place within the rising economies of Asia and broader global economy, including:
 - Australia's major trading partners
 - Australia's major exports and imports of goods, services and resources (ACHEK038)
- examine changes in Australia's trade patterns including the reasons for changes, and possible future trends
- investigate the interdependence of Australia with other global economies (ACHEK039)
- analyse the impact of government on Australia's international trade, including the significance of trade agreements

Global influences on the Australian economy

Students:

- investigate the interactions between the international and domestic business cycles, including:
 - the impact of changes in global markets, eg labour, prices
 - the impact of changes in the global economy on confidence, interest rates and exchange rates
 - examine the rise and influence of the global economy, eg trade and financial flows, investing, global market for labour, the international business cycle

Current issues

Students:

- investigate a contemporary global issue affecting a local economy in Australia, and analyse the selected issue in relation to causes, impacts on individuals and the economy, and government policy responses, for example:
 - unemployment
 - environmental degradation
 - inequality in the distribution of income and wealth

- inflation
- the setting of interest rates and the role of the Reserve Bank of Australia
- the place of multinational corporations within the Australian economy

OUR ECONOMY PART ONE:

Performance of the Australian Economy



and take notes!

Standard of living

Living standards and economic growth

Strong and sustainable economic growth

GDP per capita doesn't measure the environmental impact

Economic Growth

Income Distribution

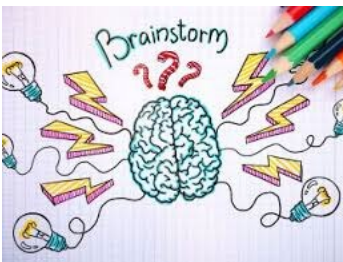
Equitable distribution of income



– government economic policy tools – macro (monetary policy/fiscal policy) and micro (trade, education, productivity)

Macro (monetary policy/fiscal policy)

Fiscal policy is government budgetary policy



What do you know about the government's budget?



a) State the 3 main sources of Federal government revenue for the 2022-23 financial year.

1. _____
2. _____
3. _____

Figure 4A: Heads of revenue in 2022-23¹²

Total revenue: \$561b



b) State the 5 main areas of Federal government expenditure for the 2022-23 financial year.

1. _____
2. _____
3. _____
4. _____
5. _____

Figure 4B: Top 20 programs 2022-23¹³

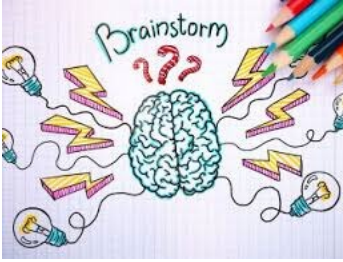
Total expenses: \$628b



SOURCE: https://www.apf.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/Publications/Chart_packs/2022-23_Budget_Snapshot

Monetary Policy

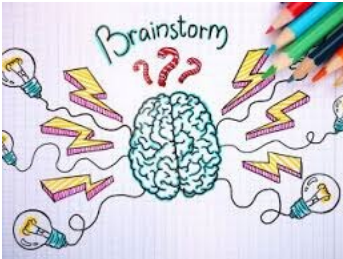
Fiscal policy is interest rate policy, regulated by the Reserve Bank of Australia (RBA)



What do you know about monetary policy?

Micro (trade, education, productivity)

Micro-economic policy is aimed at reforming (fixing up / changing) specific sectors / industries in the economy.



What do you know about micro-economic policy?

What do you know about these aspects of government micro-economic policies?

Micro-economic policy	Description / points
Trade	
Education	
Productivity	

- research the performance of the Australian economy using key indicators, including:
 - economic growth rates, unemployment trends, inflation rates and sustainability indexes

Use chart pack <https://www.rba.gov.au/chart-pack/> to find an index / graph / measure of the above and indicate it in the table below.

Economic issue	Indicator (index / graph / measure)	Reason for this performance
Economic growth rates		
Unemployment trends		
Inflation rates		
Sustainability		

– **possible reasons for its performance** Complete in column 3 above!

– **a comparison of its performance with one other economy in the Asia region**



Choose an Asian nation and undertake research into that nation's economy. Complete the table on the next page. Then, write a PEEL paragraph to compare the two economies. Be prepared to read out your PEEL paragraph to the class.

Australia	Indicator / economic aspect	Asian nation:

PEEL Paragraph:
