GENERAL COMMENTS

Generally, the examination was handled very well. The best answers provided detailed responses given time constraints and the demands of the question. More successful answers demonstrated an ability to apply what has been learnt to the particular question asked. These answers addressed all aspects of the question and gave examples as required.

Many students had clearly practised writing answers to past examination questions and a high quality of answers was evident. Less students than in previous years either ran out of time or answered more than the 4 questions required.

Students generally clearly identified which question and which part of the question (where a question was divided into parts) they were answering. Also most students had considered how to present their answers. Most students had read the questions carefully and attempted to provide a logical development in their answer. Most answers clear and easy to follow. It was helpful when students wrote clearly and answered questions in well written paragraphs. Highlighting and headings were effectively utilised by many students.

Students generally chose questions well. However there was a small proportion who chose a question divided up into Part A and Part B (worth 10 marks each out of 20) where they clearly only knew one part of the question. Students should make sure that they are able to answer all parts of the question thoroughly. Interestingly there was a genuine mix of selection of questions – there was no question which was neither favoured nor unfavoured by students.

Well prepared students are those who not only have a detailed understanding of the material covered, but who also have a clear understanding of the requirements of the examination. It was evident that this was achieved.

NOTE: English language skills do require attention – spelling/sentence structure and clarity of argument can be improved.

Question One

Overall this question was well handled by students. It was broken into Part A and Part B with both questions worth equal marks. Part B was then broken into 5 short answer questions.

Part A focused upon precedent, specifically when the High Court may decline to follow or create new precedent. The question asked for examples. Most answers were able to explain the role of the High Court in the hierarchy of courts and provide a case example (even if it was not quite on point – here many answers referred to Mabo which was well explained, however is not an example on point to the question asked).

Part B asked students to explain the reason that 5 cases or developments may have been included in a list of ‘most influential impact upon the development of Australian law. Most answers were done well (particularly Mabo!) however students might like to revise the Judicature Act system (the answer even specified it was 19th century reform in England). Yet the answer to the Magna Carta was well done – so clearly English legal and constitutional history has been covered well.
Question 2

Asked students to explain the unwritten principles of the rule of law and the separation of powers. This was well done. Answers were pleasing in their thoughtfulness and understanding. In particular most students attempted to grapple with the more challenging part of the question that asked whether there was a need for the principles to be written into law.

The question also asked students to list other unwritten principles that could be recalled from the subject. Unfortunately some students forgot to address this part of the question. The better answers mentioned aspects such as constitutional conventions; responsible government; federalism; etc. Even explaining the extent to which they are written/unwritten.

Please don’t forget to give examples when asked to – this question asked for examples and specified cases, statutes and constitutional provisions.

Question 3

There was a number of students who gave extremely good answers to this question which was on the division of powers between the States and the Commonwealth Government (not on the separation of powers). It asked students to explain section 51 of the Commonwealth Constitution and section 109 and relevant cases. The question was aimed at how the balance of power has shifted between the States and the Commonwealth through interpretation of the Constitution. Many students successfully identified and explained cases such as the Franklin Dams Case.

A smaller addition to the question was a brief form of problem question which then asked students to provide advice, to a set of facts which brought the division of powers case law into play. Some students provided excellent answers to this scenario.

Question 4

This question gave students an opportunity to refer to ADR and aspects such as the jurisdiction and hierarchy of courts. Students could also refer to precedent etc. The question asked for this at both the State and Commonwealth levels. It asked for an answer to the question as to whether ‘an effective legal system aims to provide for fair, unbiased hearings AND the timely resolution of disputes’. This question was done well with most students able to explain the differences between the States and the Commonwealth through discussion of the tribunal systems.

Question 5

This question allowed students to draw upon their knowledge of the legal profession (legal practitioners and the judiciary) and English legal history. Most students were able to do one or the other and better answers combined the two in order to explain whether they agreed with the statement that ‘The current role and function of the legal profession in NSW remains entrenched in its English origins’.
Question 6

This question was broken into Part A and Part B. Worth equal marks. Both parts of this were well done.

Part A was also broken into smaller questions, focusing upon the meaning of representative and responsible government; the historical development of the doctrines in NSW, and how NSW may improve in application of the principles. The improvement part of the question was the most challenging for students however it was handled well. Part B asked about the Federal Executive and whether it is the most powerful legal institution. Students were able to provide an opinion and better answers gave case examples as requested in the question and also referred to the Commonwealth Constitution as required.