

# **ADMINISTRATIVE LAW MODEL EXAM**



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## ***IRAC method of completing exams***

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION OF THE LAW IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion and marks will be awarded accordingly.

If you are sitting an open book exam, be sure to have concise notes with only the main points for each topic. Too much time will be wasted searching through thick textbooks.

Try to answer the question yourself first before looking at the answer. Do not worry if you do not come up with the same amount of text as is in the answer below. The student who wrote this answer had a considerable amount of time in which to write.

Good luck!

### **Question One**

The *Australian Citizenship Act 2006* (Cth) (Act) provides that:

1. The Department must, before clearing persons for immigration, assure itself that such persons have passed the 'Australian Citizenship' test. The 'Australian Citizenship' test must be tabled before Parliament.
2. In determining whether to accept immigration applications the Department shall have regard to (i) knowledge of Australian history and culture (ii) acceptable level of English proficiency (iii) skills in industries with shortages. The Department has discretion to determine the weighting of individual components in accordance with the individual merits of the case.
3. The Department may grant citizenship having regard to the Australian Citizenship test.
4. The functions of the Department must be performed in conformity with any directions given by the Minister and international law.

The Department determines a new 'Australian Citizenship' test, which involves a written and oral component language component along with multiple-choice questions relating to Australian culture. Australia is also a signatory to the *Economic Migration Convention* under which it has obligations not to 'afford all applicants for economic migration procedural fairness'.....

## **Question Two**

The *Forest Protection Act* (NSW) 1999 provides that:

1. The object of this Act is to promote sustainable management of forests in NSW by (i) restricting the amount of logging to sustainable levels and (ii) promoting projects aimed at environmental protection.
2. Logging companies must make an application to the Minister for a logging licence to log in any forest within NSW.
3. The Minister may make regulations which are necessary or convenient for carrying this Act into effect.
4. The Minister may delegate any of his functions under this Act other than the power to delegate.
5. A company denied a licence to log under this Act may appeal against the decision in the NSW Supreme Court on the basis that there was an error of law in the Minister's decision.

The Minister has delegated the making of regulations to the Secretary of the Department. The Secretary makes the *NSW Forest Protection Regulations* 1999 which states:

1. An application must be lodged by 1 February in the year of application.
2. Applications for logging licences shall be accompanied with an adequate environmental impact statement relating to the prospective area to be logged.
3. An administrative fee of \$2,000 is applicable to cover the costs of administering the scheme.

4. Every licence granted under this Act shall be subject to the condition that 2% of the yearly profit of the company shall be spent on environmental projects that will benefit the sustainable growth of NSW forests.....

### Question Three

The *Development Approval Act 1998* (ACT) states:

1. The Minister must approve the development of new petrol stations in the ACT region.
2. In granting approval of new stations, the Minister shall give consideration to:
  - a. Public demand for petrol stations in the area of the proposed application; and
  - b. Whether in the Minister's opinion, the impact of increased competition will have a detrimental effect on current operators in the area.
  - c. The effect of increased competition on the petrol prices in the area.

The Minister orders a report from an Inspector on the current demand for petrol and price of petrol in the area. The Inspector took a poll from residents, which showed that most were in favour of having another petrol station, since the area was rapidly expanding. Residents believed that a new petrol station would increase competition and drive down the current high prices. Due to world economic conditions, petrol prices have been abnormally high since mid 2005. The inspector recommends to the Minister that approval for at least one new petrol station should be given for the area. Approval is given for a new petrol station in the Gunghalin, a growing residential area in North Canberra. The station is to be built and operated by 'Good Clean Petrol' (GCP), a multinational

corporation. In a press statement, the Minister notes that his advice suggests that a new petrol station in the area will promote competition, stabilise petrol prices and will satisfy the growing demand in the area.

Leonard is the owner of a small petrol station in the area. Leonard was not consulted about the need for a new petrol station, and has been denied his request to see the results of the poll. Leonard did not take part in the poll conducted by the Inspector. Leonard is aware of the growing demand in the area, and had recently been considering expanding his station to meet the growing demand. Leonard now fears that if a bigger petrol company were to establish a station, he would not be able to compete. Given the current high prices, Leonard is not able to pass on savings to consumers, but he fears that the bigger companies have more room to do so than he does.....

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