

# **ENVIRONMENTAL 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 important part).
- Conclusion** - Tie things up by suggesting the most likely outcome, 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. Planning will help to 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; or
- ii) 'the garden path' i.e. going off on an irrelevant tangent.

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The marker will be most interested in how you arrived at your conclusion.

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 1

Digging Deep Pty Ltd is seeking consent from Blue Valley Council to extract sand from within the bed of Slippery Creek at Blue Valley in New South Wales. The proposed area for extraction is approximately 2 hectares. Digging Deep Pty Ltd has proposed the quarry to involve the removal of up to 30,000 cubic metres of dry river sand each year for a period of 25 years. Part 9 of Schedule 13 of the *Environmental Planning and Assessment Regulation 2000* indicates that the quarry constitutes an extractive industry.

A Development Application and Environmental Impact Statement were submitted in November 2011. The quarry requires a Controlled Activity approval under the *Water Management Act 2000* (NSW), as well as a permit under the *Fisheries Management Act 1994* (NSW). The matter has not yet been determined.

The action group, Let the Sand Sit, has made a written submission to the Blue Valley Council on 14 November 2013 opposing the proposed activity. In their submission, Let the Sand Sit raised concerns that threatened fauna species and ecological communities have been found in the creek.....

Sample

## Question 2

The Minister recently granted development consent to the extension of a dam in New South Wales. Water for Us Pty Ltd will extend the dam by 1 million megalitres. The dam is located in mid-West New South Wales, 75 kilometres away from Ramsar wetlands.

In 2011, tests revealed that the Ramsar wetlands were being contaminated by chemicals more than 100 times the safe limit for flora and fauna. The chemicals were found to be caused by the run-off from cotton farming activities in the dam area.

Damning Dams, a local environmental group, has raised concerns about the destructive environmental impacts that they believe the extension of a dam will cause in New South Wales. In particular, the group is concerned that the extension of the dam will cause the controlled substance Dichlorodifluoromethane to be emitted into the atmosphere.

For the past two days, 50 members of Damning Dams have been camping on the bridge which provides road access to the dam and the proposed area for extraction. This has prevented the work on the development from commencing and has captured the attention of the national media.....

## Question 3

In February 2012 the New South Wales government proposed a State Environmental Planning Policy ('SEPP') to amend its plan for an Island located off Sydney. The Department of Planning and Infrastructure has prepared a draft plan for the Minister to consider. Currently, members of the public are invited to make submissions on the proposed SEPP.

Mrs Sally Humming-Bird has made a submission outlining her objections to the SEPP. She submits that the threatened species of the Glossy Black-Cockatoo, Grey-Headed Flying-fox, Little Bentwing-bat and Greater Broad-nosed bat, as well as the ecological communities of the Subtropical Coastal Floodplain Forest and Swamp Sclerophyll Forest on Coastal Floodplains on the Island will be adversely affected by the SEPP.

Mrs Humming-Bird also argues in her submission that the natural heritage of the Island will be destroyed as a result of the State's plan. Mrs Humming-Bird has previously entered into a

voluntary conservation agreement with the Commonwealth government to preserve the values of a Commonwealth Heritage place on the Island.....

#### **Question 4**

**Evaluate the extent to which current Commonwealth and State responsibilities for environmental protection incorporate the principles of ecological sustainable development. ....**

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