

Legal Profession Admission Board

March 2021

Planning Law

Examiner's comments

General observations

1. Ten candidates sat the examination. None of the candidates failed.
2. Topics in the examination covered a range of topics covered in the course which required an understanding of general principles and planning law concepts. The questions did not cover every topic in the course.
3. It was expected that the candidates understand the subject matter, case law and materials addressed in the LEC Planning Law Course Outline.

Questions

Candidates were invited to answer a maximum of four out of six questions set in the examination paper. Each question was worth a maximum of 20 marks; answering four questions was worth a maximum of 80 marks.¹ One of the questions was divided into two parts with 10 marks for each part.

The overall standard candidates achieved was good and very good. Out of the maximum possible 80 marks on offer for answering the examination paper, 49 was the lowest mark awarded and 58 marks the highest.

Final marks (that is, adding together marks awarded for completing the assignment and awarded for answering questions in the examination) ranged from 65% to 74%. This is slightly lower than the previous term where it ranged from 70% to 77%.

In the Examiner's opinion, candidates demonstrated a good understanding of the course, or at least that part of the course upon which they were examined.

The candidates scored well in the assignment with marks ranging from 15/20 to 17/20.

The assignment required answering a choice of one of two questions relating to section 94 monetary contributions plans and planning agreements.

¹ Each candidate completed an assignment prior to sitting the examination. The assignment was worth a maximum of 20 marks; the assignment and examination paper were together worth a maximum of 100 marks.

After practicing as a solicitor in private practice (for example, Allens and Minter Ellison) and local government (that is, Marrickville Council (as then called) and City of Sydney) exclusively in the planning and environment law space for 30 years plus, I thought these issues good questions in a practical sense because candidates becoming legal practitioners will come across them in legal practice if they work in planning and environment law.

These topics were examined (and the number of candidates answering each question is set out in brackets):

1. Development Application and Assessment (four)
2. Characterization of Development (eight)
3. Development Standards (seven)
4. Modification of Development Consent (six)
5. Existing Use Rights (ten), and
6. Environmental Impact Assessment (five).

All ten candidates tackled Question 5 (Existing Use Rights) and so it may be useful to comment on the overall standard answering of this question.

The two candidates awarded the lowest mark² appeared to understand the topic but should have done more in terms of citing cases by name and legislation by reference to section numbers.

The candidate awarded the highest mark³ was able to cite cases and legislation in support of their statements of principle.

As a general comment made after lecturing in the course for almost 2 years, students need to improve their skills in citing authority in written answers to assignments and examination questions. I am available to discuss this issue if required.

In terms of the higher marks awarded for answering any of the questions,⁴ candidates provided detailed analysis, including citing cases in support of statement of principle.

I did not give any extra marks by way of compensating a candidate for lack of face-to-face teaching for lectures. We did, of course, have the weekend schools and attendances were weak.

All lectures (except for weekend schools) were via video conferencing. Attendances were poor. And that is not entirely bad because those few students attending were able to ask questions, if they wished, and discuss issues in a way not available when a larger number of students attend.

My experience is that video conferencing does not (however hard as one tries as lecturer; and one tries very hard) substitute adequately for face-to-face teaching in lectures in terms of the

² 11 marks.

³ 16 marks.

⁴ One candidate was awarded 16 marks out of a maximum of 20 marks for answering one two.

teaching experience for a student; that is, a student willing and able to attend and participate in discussion in lectures.

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