

**The University of Melbourne**

**Semester One, 2004**

**COPY**

**Faculty of Architecture, Building and Planning**

**Subject Number:** 702-354  
**Subject Title:** Property Law and Practice

**Exam Duration:** Three (3) hours  
**Reading Time:** 15 minutes  
**This paper has** Five (5) pages

**Authorised materials:**

Students may bring into and use in the examination room the following:

- all course materials
- all notes made by students
- all corrected assignments returned to students
- all tutorial assignments
- all relevant Acts of Parliament
- electronic calculators
- text books
- a foreign language dictionary

**Instructions to Invigilators:**

Standard script books only required.

Exam paper may not be removed from the examination room.

**Instructions to students:**

Answer **Part A** in a separate examination answer booklet and write your student number and the question numbers on each booklet.

Answer **Part B** in a separate examination answer booklet and write your student number and the question numbers on each booklet.

Answer **all nine (9)** questions.

**Paper to be held by Baillieu Library**

## **PART A**

**Note: To adequately answer Questions 1 to 6 (Part A), where applicable you should name the relevant Act of the Victorian Parliament or Commonwealth Parliament as the case may be and state the relevant section(s) of the Act.**

### **QUESTION 1**

How will businesses be affected by the introduction of the “unfair terms in consumer contracts” provisions, which commenced operation in October 2003 and which were inserted into the *Fair Trading Act* 1999.

**Total for Question 1**

**(10 marks)**

### **QUESTION 2**

John owns a block of six (6) one bedroom flats in Mayfield Street, Abbotsford.

A vacant block of land next door to the flats will go to public auction in three weeks and John is thinking of buying the land and building a car park on the land for use by his tenants and the public.

The selling agent informs John that the vacant land is probably owned by the Crown, although he is not sure as he only received instructions to sell the land a week ago. The agent also tells John that the land backs on to the Yarra river.

(a) Advise John on all the ways possible to identify the owner of the land.

**(4 marks)**

(b) Advise John in what situation the land may be subject to a native title claim.

**(4 marks)**

(c) Assume John is successful at the auction. What document must the Vendor give to John before John signs the contract of sale?

**(2 marks)**

**Total for Question 2**

**(10 marks)**

### **QUESTION 3**

List all of the interests in land which are not freehold interests. In your answer you need to provide a description of each interest and give an example for each interest.

**Total for Question 3**

**(10 marks)**

### **QUESTION 4**

Define each of the following:

- (a) Capital gains tax;
- (b) Interest title;
- (c) Input taxed;
- (d) Deed;
- (e) Chattel.

**Total for Question 4**

**(10 marks)**

### **QUESTION 5**

Mary Jones is about to go overseas on a six week holiday to Jamaica. Mary works as a builder and like most builders Mary works too hard and has not had a holiday for over 5 years. Mary's friend Phil, suggests to her that she give Phil an enduring power of attorney so that Phil can look after her financial affairs while Mary is overseas.

- (a) Which Act of the Victorian Parliament prescribes the form of enduring power of attorney that Mary must use? **(2 marks)**
  
- (b) Who is prohibited by the relevant Act from witnessing the enduring power of attorney and who is permitted by the relevant Act to witness the enduring power of attorney? **(2 marks)**
  
- (c) Advise Mary of three important things she needs to consider before she signs the enduring power of attorney. **(6 marks)**

**Total for Question 5**

**(10 marks)**

### **QUESTION 6**

Paula owns over 100 hectares of farmland in Gippsland. The land is on one title - volume 8097 folio 123. Located on the property are two houses, three wool sheds, two chicken sheds, and a large grain silo. To help make ends meet Paula decides to sell one of the houses together with ten hectares to Pete Smith, a local dairy farmer. The sale price is \$80,000 and Paula and Pete have exchanged contracts of sale.

Paula has been advised by the local council that she will need a planning permit to subdivide the land.

(a) Which documents have to be lodged at the titles office/Land Victoria to enable Pete to be registered as the owner of the ten hectares of land and what information do you need to include in the documents?

**(6 marks)**

To fund the purchase, the ANZ Bank agrees to lend Pete \$40,000.

(b) Which form of security document, to be lodged by the ANZ Bank at the titles office/Land Victoria, will the ANZ Bank require Pete to sign ?

**(2 marks)**

On his lawyer's advice, Pete decides that he should immediately lodge a caveat over the title to the land which he is purchasing.

(c) What are the 8 essential elements of a caveat ?

**(2 marks)**

**Total for Question 6**

**(10 marks)**

## **PART B**

### **QUESTION 7**

You have been recently employed at a property firm. The manager has asked you to give a presentation to the organisation on the concept of "Professional Practice" and what it means for the property professional. Outline the major aspects to be included in your presentation. In your answer you should cover areas such as:

- Who it covers;
- The role of industry bodies;
- The background to Professional Practice;
- Requirement for entering the professions;
- Limitations of Professional Practice.

**Total for Question 7**

**(10 marks)**

### **QUESTION 8**

Discuss the major elements of a submission for an advertised tender, and the steps involved in writing a submission. Explain alternative approaches to calculating the cost structure, and what the important elements are to be included in a successful submission.

**Total for Question 8**

**(15 marks)**

### **QUESTION 9**

Explain your understanding of the role of ethical behaviour in business. Define 'ethics' and discuss when it does and does not apply. Include examples in your answer, and pay particular attention to the property industry.

**Total for Question 9**

**(15 marks)**

**Total for Examination Paper**

**(100 marks)**

**END OF EXAMINATION PAPER**