

The University of Melbourne

Semester One 2004

Faculty of Architecture, Building and Planning

Subject Number: 705-345/545

Subject Title: Planning Law

Please write your name and student number in the examination answer booklet.

Exam duration: 2 hours

Reading time: 30 minutes

This paper has five pages

Authorised Materials:

This is an open-book exam.

Instructions to Invigilators:

This exam paper may be removed at the end of the examination period.

Instructions to Students:

Answer any three (3) of the following five (5) questions.

To student administration: This paper can be lodged with the Baillieu Library after the examination period.

Question 1

(a) By reference to clause 32.04 of the Yarra Planning Scheme state whether:

- a planning permit is required, or
- a planning permit cannot be granted

for the following purposes:

1. a travel agency
2. a cattery (with capacity for 99 cats on short term stay)
3. a furniture joinery
4. a timber yard
5. a flour mill

Give reasons for your answers.

- (b) Under the same clause, would a wholesale bakery be allowed if it did not sell to the public? Why? / Why not?
- (c) A hotel under clause 32.04 with a 1.00am trading license wants to put live music on from 8.00pm till closing. Does the publican need a planning permit? Explain.
- (d) An application is made on land under clause 32.04 for a single dwelling on a 600 square metre lot. Does it require a planning permit? Does it require a permit under any other section of the planning scheme? Explain.

Question 2

Georgio has a gourmet takeaway fish and chip shop in Brunswick Street, Fitzroy. Business is poor as there has been a significant upsurge in vegetarianism as the local community has been frightened off by a recent Port Phillip Bay contamination scare caused by a Liberian registered ship dredging the bay. Georgio proposes to change the use of his shop to a coffee shop/ café selling organically-grown coffee from Mildura. This will involve no alterations to the front of the shop apart from signage but if he extends at the rear he will be able to fit 50 seated patrons in the shop without losing his existing car parking. He currently has parking at the rear of the shop for 3 cars.

The shop is located in a Business 1 Zone. Council has just put on exhibition an amendment to the Yarra Planning Scheme which proposes to include his shop in a Heritage Overlay area.

He seeks your advice as to whether he needs a permit:

- (a) to change the use from a takeaway fish and chip shop to a coffee shop;
- (b) to do the building works for the conversion;
- (c) whether he needs to provide additional car parking;
- (d) whether the proposed amendment to the Yarra Planning Scheme can be taken into account by the Council in determining to grant any permit required. Does the Heritage Overlay change the need to obtain a permit?

Question 3

Sub Zero Constructions wants to redevelop a site in Richmond for a multi-storey apartment building. The site is currently occupied by a childcare centre. The childcare centre is a converted single storey dwelling with extensive open space for the children and 4 car parks at the rear accessed from a lane. To the east is a three-storey warehouse and to the west is a single-storey dwelling.

The land is in a Mixed Use Zone and has no overlays. Fullham Zero, the managing director of Sub Zero Constructions, is considering two designs for the site. One is a five-storey building with three dwellings on each of the first four levels and a penthouse on the fifth. The other option is a three-storey building with two dwellings on each level.

- (a) What provisions of the Yarra Planning Scheme apply to the consideration of each of these proposals?
- (b) Which design option has the greater chance of success in obtaining planning approval and why?

Question 4

Jed Gorman proposes a golf course residential development along the Yarra River at Burnley. The site is a former abattoir. The land is currently zoned Industrial 1. There is a stand of River Redgums on the boundary which is estimated to be over 200 years old. The gates to the site are reputed to have been designed by a famous convict architect.

Jed seeks your advice on the following :

- (a) Can Jed develop his golf course residential development on this land given its current zoning?
- (b) Is there a more appropriate zoning? If so, explain the process to achieve it.
- (c) What zone controls and overlays are the most appropriate for the land use as proposed, and why?

Question 5

Diana is Brad's very annoying neighbour. Diana has the habit of playing Britney Spears music continually, interrupted only by the occasional Kylie Minogue song. Brad's musical choice is more along the lines of Cannibal Corpse and Necrophobic.

Brad has received notification from Council that Diana is seeking a permit to extend her dwelling to accommodate a sound lounge. Brad fears that the extension will exacerbate the annoyance caused by Diana's music. The extension is intended to be two-storeys high for the remaining length of the boundary between his house and Diana's. Diana's dwelling is north of Brad's house. Brad has a solar hot water system on his roof. The land is zoned Residential 1.

- (a) Advise Brad what matters he can relevantly raise as objections to Diana's permit application.
- (b) If you are the Council officer assessing the application, what are the relevant matters for you to consider?
- (c) In the event that a application is brought by Brad to the Victorian Civil and Administrative Tribunal, what matters can the Tribunal take into account?
