

FINAL EXAMINATION

DATE: WEDNESDAY 27<sup>th</sup> OCTOBER 2022

TIME: 8:20 AM – 11:20 AM

VENUE: ST1

TIME ALLOWED: 3 HOURS

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**DIRECTIONS TO STUDENTS**

1. You have 10 minutes to read the examination paper. You must not begin writing during this time.
2. There are twenty-three (23) questions.  
Part A: You MUST answer all Questions. Total Marks; 11 Questions X 3 Marks each = 33 Marks  
Part B: You MUST answer all Questions. Total Marks; 12 Questions X 1 Mark each = 12 Marks  
Total Marks: = 45 Marks
3. Make sure that you read each question carefully. The number of marks for each question is given with each question.
4. **PRINT** your name and student ID number on the answer book provided. **PLEASE DO IT NOW.**
5. All answers must be written in the answer booklets provided. No other written materials will be accepted. Please hand in every answer booklet provided to you whether used or unused.
6. Notes, textbooks, and electronic devices (laptops, mobile phones, calculators, tablets, etc.) are not permitted in the examination room. This is a closed book exam.
7. Please print your name and student ID number on the answer book provided. **Do it now.**

This Examination is worth 50% of your Final Grade.

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PART A: Problem Questions – [ 11 Questions X 3 Marks each = 33 Marks]

Question 1. (3 Marks Each)

XYZ Construction Ltd was awarded a contract to build a K 1.5 million luxury home for Jim and his family.

Construction was to commence immediately after the signing of the contract by all parties to the contract; and the luxury home and surrounding estate was to be completed to specifications within six months after all parties had signed the contract.

XYZ Construction Ltd took possession immediately after signing of the contract and built a fence around the construction site before commencing work.

It took XYZ Construction Ltd nine and a half months to complete building the Luxury Home and surrounding estate.

- (i). Identify the parties to this contract. Who are the parties to this contract?
- (ii). What are the terms and conditions of the Contract?
- (iii). Was there a breach of contract? If so, who was in breach? And what was the breach?
- (iv). What is the remedy available to the injured party?
- (v). What are XYZ Construction Ltd's rights and duties under the contract?
- (vi). What are Jim's rights and duties under the contract?

#### Question 2. (3 Marks Each)

XYZ Construction Ltd is awarded a major contract some 20 kilometers upstream from Q Village.

River RS runs past the construction site to Q Village. It is the only source of water used by the villagers of Q village for drinking, cooking, bathing, etc.

During construction, the management noted that they will save cost if they dump certain toxic wastes into river RS instead of incurring the extra cost of transporting and storing it in a safe storage area.

The XYZ Construction Ltd management, reasoned that river RS was big and that if they dumped the toxic wastes during the night, all of it will be washed away before daybreak.

XYZ Construction Ltd proceeded to dump those toxic wastes directly into river RS. The immediate result was the poisoning of fish and other animals including the villagers of Q village downstream.

- (i). Is XYZ Construction Ltd liable for any wrong/tort? If so, what category of wrong or tort does XYZ Construction Ltd's actions fall under?
- (ii). Did XYZ Construction Ltd owe a duty of care? To whom did it owe the duty of care?
- (iii). If XYZ Construction did owe a duty of care; did it or did it not breach that duty of care? Explain.

#### Question 3. (3 Marks Each)

SMK Construction Ltd (SMK) is a duly registered construction company. It has tendered for and been awarded a contract by the Morobe Provincial Government to build a stadium at East Taraka with a sitting capacity of 5000 people. The stadium will also have other features such as car parks, kaibars, restrooms, a bar, swimming pool and other amenities.

Obviously this Construction work is complex, and will impact on a large number of people thereby having significant health and safety, environment and other wider implications. As a result, a number of approvals may be required before construction works begin. Generally, the number of approvals required will increase with the size, complexity and sensitivity of the proposed works.

In the instant case, SMK will enter into various contractual agreements with suppliers who will be supplying building materials, architects for building designs, engineers and carpenters to plan and build the stadium and so forth.

Note that this will be achieved through entering into various contracts with the sub-contractors. SMK may with the sub-contractor's consent offload some of the statutory requirements imposed on it to the sub-contractor by including that in the contract.

However, in this instance SMK will meet all statutory obligations required of it.

- (i) **Name four permits or approvals that SMK will have to obtain before construction of the stadium begins.**
- (ii) **For the four permits or approvals you named; which 'Act and Regulation of Parliament' or law of PNG will they consult for each permit or approval? Name the permit or approval and the Act/Regulation or law SMK will consult.**

**PART B: True or False Questions – [17 Questions X 1 Mark each = 17 Marks]**

**Question 4. Circle the correct answer.**

- (a) Building Regulation is a set of rules that govern buildings. Thus, any person who intends to erect or construct a building must have knowledge of these building rules and comply with them.  
True or False
- (b) Building Regulations are for the benefit of people living within a society. They protect public health, welfare and safety.  
True or False
- (c) Building Regulations and or Codes are similar throughout the world as each country has generally the same practices of developing, approving and enforcing Building Regulations and Codes.  
True or False
- (d) Professionals in the fields of Building and Construction, Architecture, Engineering, Physical Planning and others were involved in drafting White Papers, making Policy Submission and ultimately debated and enacted the Building Act 1971 and subsequently the Building Regulation 1994 into law.  
True or False
- (e) The first codified Building Regulations carrying the weight of law behind it including the Building Act 1971 (Chapter 301) came into existence after PNG gained independence.  
True or False
- (f) During colonial times, the building laws of the territories of New Guinea and Papua did not cover many important aspects such as fire, earthquake, etc. and there was a lot of room for improvement.  
True or False
- (g) The Building Act 1971 (Chapter 301) applies to all buildings in PNG.  
True or False
- (h) The Building Regulation 1994 (Regulation) was made under the Building Act 1971 and it is detailed and extensive as it regulates all matters not covered properly by the Act.

True or False

(i) The Building Regulation 1994 applies to the construction of a building and to alterations made to an existing building.

True or False

(j) The emphasis of traditional construction works in PNG seems to have been on style and durability.

True or False

(k) The construction of a building in traditional PNG was a communal activity because of the economic activity involved.

True or False

(l) The laws guiding construction works in traditional PNG society were written down and passed down from generation to generation.

True or False

(m) Throughout the world Building Regulations are uniform and address the same issues.

True or False

(n) Throughout the world, Building Regulations are created only by the State or National Governments.

True or False

(o) The Building Act of 1971 has never been changed since its creation.

True or False

(p) The Building Act 1971 applies to all buildings in townships and to such buildings or such classes of buildings in an area where the Minister declares by notice in the National Gazette to be a township and or a prescribed area which is subject to the Building Act 1971.

True or False

(q) In PNG it is only the Provincial Building Boards that administer the Building Act 1971.

True or False

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GOOD LUCK!

**Mr Nekents Tombe**  
Examiner

**Mr Matthew Pomoso**  
Co-examiner