

# SAMPLE ANSWER SHEET



## APE NATIONAL EXAMINATION PAPER ANSWER SHEET

### Instructions

- . Print your name and the State/Territory in which you are sitting the Exam in the space provided below
- . For each scenario select all statements that you consider correct and place a tick in the appropriate answer box/boxes
- . Use a blue or black pen to mark your answers
- . Use white out to correct an answer.

<b>CANDIDATE'S NAME:</b>	EMMA-KATE SMITH	<b>STATE/ TERRITORY</b>	WA
<b>DATE of BIRTH:</b>	14 JULY 1976		

Office Use - Leave Blank	SCENARIO	Statements						
		a	b	c	d	e	f	g
	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
	4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
	5	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
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	7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

## SAMPLE PAPER ANSWERS

### ANSWERS

#### Scenario 1

- a) Right. You did advise the client of the risk of proceeding prematurely and that risk was accepted.
- b) Wrong. The client relies on you to produce a design that complies with Council's published planning policies. This is why you have been engaged as his professional expert. You must complete the modification at your own expense.
- c) Wrong. See answer 2 above.

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#### Scenario 2

- a) Wrong. Professional Indemnity Insurance (PII) is taken out to protect professionals against claims for breach of contract or negligence. Failure to satisfy the budget could bring about a claim under either heading.
- b) Right. You are in breach of your contract if you do not bring the project in at a cost reasonably consistent with the agreed budget. See *Nemer v. Whitford (1982) 31 SASR 475*. It was found that the architect's use of the budget figure to support his claims for fees was evidence of the agreement to design within the client's budget.
- c) Right. This head is usually pleaded in claims against architects on the basis that they represented they were able to design it within the agreed budget. See *Bond Corporation Pty Ltd v. Theiss Contractors Pty Ltd (1987) 14 FCR 215*.
- d) Wrong. You entered into a contract to design the project within a budget. The fact that the client set the budget is irrelevant to the contract in its final form.
- e) Right. Comply with the conditions of the PII policy and report all conditions likely to give rise to a claim.

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## SAMPLE PAPER

### ANSWERS

#### Scenario 3

- a) Wrong. It is appropriate for minor defects to be recorded and aggregated for efficient completion towards the end of the period. However, if instructed by the architects, defects that interfere with the operation of the building must be rectified in accordance with the instructions, subject to the terms of the contract.
- b) Wrong. See answer 1 above.
- c) Wrong. The retention fund is available to the proprietor at his discretion provided the builder has been issued the relevant warnings as set out in the specific building contract form.
- d) Wrong. The builder is liable for any shortfall in expenditure.
- e) Right. The terms of the contract allow the proprietor to access the retention fund. However, it is prudent for a proper accounting for expenditure to be undertaken in the event that the builder institutes legal proceedings to recover retention monies. The liability of the proprietor to demonstrate how the monies were expended will reduce his risk.

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#### Scenario 4

- a) Right. This is a common condition of most building contracts. Unless it is specifically excluded from a contract it will be deemed to be included as industry practice.
- b) Wrong. Refer above.
- c) Right. If the builder was found to have executed the work satisfactorily then he has a valid claim for a variation. It may be that there will be grounds for refusing the variation because the need to prove the work resulted from the builder's failure to follow the contract terms.
- d) Wrong. You have acted prudently and in the client's interest to ensure that the work is constructed according to the specification. Failure to order the builder to open-up is more likely to attract a claim against you than the reverse.

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### ANSWERS

#### Scenario 5

- a) Wrong. There is no legal or ethical reason to decline the commission.
- b) Wrong. Accepting a commission, which is likely to have professional and political repercussions, should not be done without careful consideration of the possible consequences in relation to reputation and time that might be involved.
- c) Right. Amendments to the Copyright Act require certain actions by the principal (Owner of the Building) and impose certain time bars in relation to those actions (refer *Copyright Amendment (Moral Rights) Act 2000 (Cwlth)*).
- d) Wrong. There is no legal requirement for the architect to contact the former architect although there is probably a professional/ethical requirement to do so.

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#### Scenario 6

- a) Wrong. The builder is not entitled to costs of wet weather delays and you have formed the view that part of the remaining claim is not valid, because the builder failed to take sufficient steps to drain the site.
- b) Wrong. Because the builder would be entitled to 100 per cent costs for all valid delays.
- c) Wrong. Because some of the claim is valid.
- d) Right. Refer to the answers to statements 1, 2, 3.

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## **SAMPLE PAPER**

### **ANSWERS**

#### **Scenario 7**

- a) Wrong.
- b) Wrong.
- c) Wrong.
- d) Right.
- e) Wrong.

#### **REFERENCES:**

Building Code of Australia (BCA) Section D – Access and Egress.

Part D2.16 of the BCA states:

- A continuous balustrade or other barrier must be provided to a mezzanine where public access is provided for.
- The height of the balustrade or barrier shall not be less than 1m above the floor.
- Any opening in the balustrade does not permit a 125mm sphere to pass through it.
- For floors more than 4m above the surface beneath, any horizontal elements between 150mm and 760mm above the floor must not facilitate climbing.

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