



# LAW 867

## Water and Marine Biodiversity Law

S2 Day 2014

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Madeleine Hartley

[madeleine.hartley@mq.edu.au](mailto:madeleine.hartley@mq.edu.au)

Credit points

4

Prerequisites

Admission to MEnvLaw or PGDipEnvLaw or PGCertEnvLaw or MIntEnvLaw or PGDipIntEnvLaw or PGCertIntEnvLaw or LLM in (Environmental Law or International Environmental Law) or 42cp in LAW units at 400 or 500 level or (admission to JD and 32cp in LAW units at 800 level)

Corequisites

Co-badged status

Unit description

This unit evaluates approaches to water and marine biodiversity governance and the efforts of the global community with respect to enforcement and compliance. The first half of this unit examines the principles and laws relating to the sustainable use and management of freshwater living resources. The second half examines law and policy relating to the protection and preservation of marine living resources. Specific attention will be given to fisheries management, species-based approaches and habitat. Cross-cutting issues will be explored including the challenge of integrating conservation and utilisation of freshwater and marine biodiversity.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;

Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;

Explain and critically assess the role played by law in dealing with biodiversity

conservation, use and management issues;

Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;

Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;

Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## General Assessment Information

All written assignments should be typed in **12 point font and 1.5 spaced** and referenced. All assignments must be references using the AGLC footnote referencing method (including pinpoint referencing) and have a comprehensive bibliography. Footnotes, bibliography and other referencing must be consistent with the Australian Guide to Legal Citation. This can be downloaded online.

It is essential that all academic writing is adequately and appropriately referenced.

### Word length

Word length of assignments should be indicated. Word limits should be adhered to. The word length indicated for the assignments is exclusive of footnotes and the bibliography. **The word limit should not be exceeded by more than 10%. A 2% penalty will be applied for each 250 words over the word limit.**

### Submission

Assignments are to be submitted electronically via Turnitin.

Students are advised to always make and retain a backup copy of all pieces of work submitted. It is University policy to place upon the students the onus of producing a copy of work that goes astray.

## Assessment Tasks

| Name                              | Weighting | Due                  |
|-----------------------------------|-----------|----------------------|
| <u>Online Forum Participation</u> | 5%        | Friday, August 29    |
| <u>Class Participation</u>        | 5%        | September 19-21      |
| <u>Presentation</u>               | 10%       | September, 20        |
| <u>Written Essay</u>              | 30%       | Monday, September 22 |

| Name                 | Weighting | Due                 |
|----------------------|-----------|---------------------|
| <u>Written Essay</u> | 50%       | Friday, November 14 |

## Online Forum Participation

Due: **Friday, August 29**

Weighting: **5%**

You will be asked a variety of question that relate to all the content delivered up until the due date. you will be required to respond to questions using online forums. Participation on first forum (at the end of Week 3) will be assessed. Assessment criteria will focus on knowledge of the readings, critical dialogue, and quality of responses. This is to be considered a bench mark for all other forum participation.

On successful completion you will be able to:

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Explain and critically assess the role played by law in dealing with biodiversity conservation, use and management issues;
- Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;
- Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;

## Class Participation

Due: **September 19-21**

Weighting: **5%**

As assessment for this unit also includes class participation. Students should ensure they have completed the required readings prior to the on-campus session and be prepared to discuss this material in class. Students will not be awarded participation marks just for attending class. The following non-exhaustive criteria list will be used to assess your class participation:

- The level of preparedness for each on campus session gauged by your responses to questions and answers and opinions offered throughout each class
- The level of analysis you display in class
- Your ability to answer questions put directly to you in class
- Your ability to make an educated and legally feasible argument in class

- The way in which you engage in a constructive way with other students and the Convenor in the class
- The quality NOT quantity of your work in class

Please note that the onus to participate in class is on you not on the Convenor. In other words, it is not the job of the Convenor to engage you in discussion so that you may avail yourself of the class participation assessment.

On successful completion you will be able to:

- Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;

## Presentation

Due: **September, 20**

Weighting: **10%**

Postgraduate students are required to present in this unit. A list of topics will be uploaded onto i-Learn early in the semester. Each student should email the Convenor their first and second choice. Topics will be assigned on first come, first served basis. Topics will be assigned to students who do not make a choice within the required timeframe.

Postgraduate students will present on **SECOND DAY OF THE INTENSIVE**. The presentation should not extend beyond 10 minutes (plus question time). A good structure would be a brief introduction to the topic, key writers/literature, the main legal issues, and 1-2 questions for the class to discuss. PowerPoint slides may be used but are not essential. The assessment will be based on the quality of the presentation and therefore students should submit a list of references and outline of the presentation prior to the on-campus session to assist in this process.

On successful completion you will be able to:

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;
- Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;
- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## Written Essay

Due: **Monday, September 22**

Weighting: **30%**

All students are required to answer a set question. The question will be based upon the first six weeks of the Unit. In preparing the assignment students are encouraged to undertake research beyond the materials set out in the Reading List for Weeks 1-6.

Question:

Given that freshwater biodiversity is by most estimates the most endangered category of biodiversity in the world, is international water law still too anthropocentric in its focus?

The essay should demonstrate your understanding of the key challenges in freshwater biodiversity conservation, the key concepts and approaches taken in international water law, and your critical analysis of the current regime.

The paper should be well structured and include sub-headings where appropriate. The introduction should set out the scope of the paper. Be careful to answer the question that has been asked. The essay should be fully referenced according to the Australian Guide to Legal Citation.

**This assignment is due immediately after the OCS on the 22nd September 2014 by 5pm.**

**Word length 2,500 words excluding footnotes and bibliography**

On successful completion you will be able to:

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;
- Explain and critically assess the role played by law in dealing with biodiversity conservation, use and management issues;
- Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;
- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## Written Essay

Due: **Friday, November 14**

Weighting: **50%**

Students are to complete an independent research paper on any marine environmental law topic relevant to this Unit. This task allows students to undertake in depth research and analysis of a specific aspect of marine biodiversity law, the legal frameworks in a given country or the legal issues associated with a particular site. A brief **outline of the research question and structure of the paper should be submitted to the Convenor for approval by 6th October 2014**. This is for your benefit to ensure that the topic is suitable and the structure and content appropriate. The outline itself will not be assessed.

The paper should be well structured and include sub-headings where appropriate. You need to include sufficient detail of the specific legal principles or regime and analysis/ application of that law. Your conclusion should include recommendations for new law, law reform, further research and/or creative application of the existing law where appropriate. The essay should be fully referenced according to the Australian Guide to Legal Citation.

**This assignment is due Friday 14th November 2014 by 5pm.**

**Word length 4,000 words excluding footnotes and bibliography**

On successful completion you will be able to:

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;
- Explain and critically assess the role played by law in dealing with biodiversity conservation, use and management issues;
- Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;
- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## **Delivery and Resources**

It is expected students will be heavily engaged with the online forums. This includes introducing yourself at the beginning of the session using the General Discussion Forum, and posting relevant news articles or anything that is of interest for the class.

## Unit Schedule

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| <p>Week<br/>1</p> | <p>Modules 1-3: Introduction to freshwater biodiversity and global freshwater law and policy</p> <p>Modules 1-3 provide students with an introduction to freshwater biodiversity and global freshwater law and policy. The materials examine international and local freshwater law and policy, its relationship to biodiversity, and the role of ecology in these frameworks. Students should enter module 4 with a sound understanding of sustainability in water law and the relevance of law in governing water resources.</p> <p>Reading: Although you are required to read all below articles, you can do so in whatever order you wish.</p> <p>Edward B Barbier, 'Wetlands as natural assets' (2011) 56(8) Hydrological Sciences Journal 1360.</p> <p>Malin Falkenmark and Johan Rockstrom, <i>Balancing Water for Humans and Nature</i> (Cromwell Press, 2004) Chapter 4: 'Incorporating Water for Ecosystem 'Services' (pp 43, 64-79).</p> <p>Douglas Fisher, <i>The Law and Governance of Water Resources: The Challenge of Sustainability</i> (Edward Elgar Publishing, 2009) Chapter 4: 'The doctrinal foundations of water resources law'.</p>  |
| <p>Week<br/>2</p> | <p>Louis J Kotzé and Rebecca Bates, 'Similar but Different: comparative perspectives on access to water in Australia and South Africa' (2012) 15 University of Denver Water Law Review 221.</p> <p>Frank Lawson, 'Sustainable Development Along International Watercourses: Is Progress Being Made?' (2013) 16 University of Denver Water Law Review 323.</p> <p>Michelle Lim, 'Is Water Different from Biodiversity? Governance Criteria for the Effective Management of Transboundary Resources' (2014) 23(1) Review of European Community and International Environmental Law 96.</p>   |
| <p>Week<br/>3</p> | <p>Lawrence J MacDonnell, 'Environmental Flows in the Rocky Mountains West: A Progress Report' (2009) 9(2) Wyoming Law Review 335.</p> <p>Sandra Postel, 'Water: Adapting to a New Normal' in Richard Heinberg and Daniel Lerch (eds) <i>The Post Carbon Reader: Managing the 21st Century's Sustainability Crises</i> (Watershed Media/ University of California Press, 2010) 1.</p> <p>David L Strayer and David Dudgeon, 'Freshwater biodiversity conservation: recent progress and future challenges' (2010) 29(1) <i>The North American Benthological Society</i> 344.</p> <p>Assessment: Forum Participation</p> <p>Forum Questions</p> <ol style="list-style-type: none"><li>1. What is freshwater biodiversity and how is it influenced by blue or green water?</li><li>2. Is there a material difference between water and biodiversity, and (how) should law and policy makers account for the idiosyncrasies of each?</li><li>3. How does freshwater law and policy differ between international jurisdictions?</li><li>4. What does sustainability in water resources encompass?</li><li>5. Identify a challenge or shortcoming in current law and policy in any jurisdiction relating to freshwater biodiversity and briefly recommend a way forward.</li></ol> |



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| Week<br>4 | <p>Module 4: National approaches – water law in Australia (25.08.14)</p> <p>This module provides an overview of the Australian Federal approach to water law and management including the constitutional framework, the relevance of environmental water allocations, and the current approach to water rights in NSW under the NWI.</p> <p>Readings</p> <p>Alex Gardner, Richard Bartlett and Janice Gray, <i>Water Resources Law</i> (LexisNexis, 2009)</p> <ul style="list-style-type: none"><li>• Chapter 1: 'Defining Water Resources in Australia'</li><li>• Chapter 3: 'National Water Law Reform Policy' (pp 41-47).</li><li>• Chapter 12: 'Contemporary Access Entitlements' (pp 216-226; 231-234).</li></ul> <p>Alex Gardner, 'Environmental water allocations in Australia' (2006) 23 <i>Environmental and Planning Law Journal</i> 208.</p> <p>Douglas Fisher, <i>The Law and Governance of Water Resources: The Challenge of Sustainability</i> (Edward Elgar Publishing, 2009) (pp 154-160).</p> <p>Cameron Holley and Darren Sinclair, 'Compliance and Enforcement of Water Licences in NSW: Limitations in law, policy and institutions' (2012) 15(2) <i>The Australasian Journal of Natural Resources Law and Policy</i> 149.</p> <p>Michael McKenzie, 'Water Rights in NSW: Properly Property?' (2009) 31 <i>Sydney Law Review</i> 443.</p> <p>Kate Stoeckel et al, <i>Australian Water Law</i> (Thomson Reuters, 2012) pp 83-109.</p> <p>Forum Questions</p> <ol style="list-style-type: none"><li>1. What is the NWI and how has it shaped water rights in Australia?</li><li>2. What is the constitutional framework supporting water rights in Australia?</li><li>3. Does the NWI system of water access entitlements create property rights to water?</li><li>4. What challenges face the system as regards compliance and enforcement of water rights?</li></ol> |
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| <p>Week<br/>5</p> | <p>Module 5: Cross-cutting issues – groundwater governance (01.09.14)</p> <p>This module examines issues of groundwater governance nationally and internationally and unpacks the issues involved with regulating a 'hidden' resource.</p> <p>Readings:</p> <p>Douglas E Fisher, 'Water law, the High Court and the techniques of judicial reasoning' (2010) 27 Environmental and Planning Law Journal 85.</p> <p>Justice Gregory J Hobbs Jnr, 'Protecting Prior Appropriation Water Rights Through Integrating Tributary Groundwater: Colorado's Experience' (2010) 47 Idaho Law Review 5.</p> <p>Cameron Holley and Darren Sinclair, 'Deliberative participation, environmental law and collaborative governance: insights from surface and groundwater studies' (2013) 30 Environmental and Planning Law Journal 32.</p> <p>Stuart Kirk, 'Interactions between groundwater-surface water and terrestrial ecosystems' in Alper Baba, Ken W F Howard and Orhan Gunduz (eds), <i>Groundwater and Ecosystems</i> (Springer, 2006) 205.</p> <p>Jennifer McKay, 'Groundwater as the Cinderella of Water Laws, Policies and Institutions in Australia' (2007) <i>The Global Importance of Groundwater in the 21st Century: Proceedings of the International Symposium on Groundwater Sustainability</i> 317.</p> <p>Forum Questions</p> <ol style="list-style-type: none"><li>1. What are some of the challenges associated with regulating groundwater resources?</li><li>2. How can water law be improved to more comprehensively include hydrogeological understandings and protect groundwater-dependent ecosystems.</li><li>3. Where does Australian law stand on the proprietary status of groundwater licences under the Water Act 1912 (NSW) as opposed to water access entitlements under the Water Management Act 2000 (NSW)? (cf Module 4 Question 3 above).</li></ol> |
| <p>Week<br/>6</p> | <p>Module 6: Case study – the Murray-Darling Basin (08.09.14)</p> <p>This module will allow students to look in depth at the history and current arrangements relating to the Murray-Darling Basin (MDB), and explore the legal controversy surrounding the implementation of the Murray-Darling Basin Plan (MDBP).</p> <p>Readings:</p> <p>Emma Carmody, 'The silence of the plan: Will the Convention on Biological Diversity and the Ramsar Convention be implemented in the Murray-Darling Basin?' (2013) 30 i.</p> <p>Anita Foerster, 'What's in the Basin Plan?' (2013) 28(3) <i>Australian Environment Review</i> 487.</p> <p>Anita Foerster, 'The Murray-Darling Basin Plan – a new chapter of sustainable water management?' (2012) 27(3) <i>Australian Environment Review</i> 71.</p> <p>John Scanlon, 'A hundred years of negotiations with no end in sight: Where is the Murray Darling Basin Initiative leading us?' (2006) 23 <i>Environmental and Planning Law Journal</i> 386.</p> <p>Adam Webster and John M Williams, 'Can the High Court save the Murray River?' 29 <i>Environmental and Planning Law Journal</i> 281.</p> <p>Online Forum Questions:</p> <ol style="list-style-type: none"><li>1. Describe the management challenges that the MDB has traditionally faced and the effectiveness of management and regulatory regimes aimed at sustainability in the MDB.</li><li>2. Describe some of the successes and failures of the MDBP in relation to achieving sustainability in the MDB.</li><li>3. What role, and is it an effective one, can the High Court of Australia play in adjudicating disputes of water resources?</li></ol>   |

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| <p>Week<br/>7</p> | <p>Module 7: Introduction to the marine environment (15.09.14)</p> <p>This module will introduce the ocean environment, marine biodiversity, and the threats to its health. It will also overview the origins and key actors in the law of the sea.</p> <p>Readings:</p> <p>Centre for Marine Biodiversity, Canada, What is Marine Biodiversity? &lt;<a href="http://www.marinebiodiversity.ca/cmb/education/what-is-marine-biodiversity">http://www.marinebiodiversity.ca/cmb/education/what-is-marine-biodiversity</a>&gt;</p> <p>MC Baker, 'The Status of Natural Resources on the High Seas' (2001) IUCN<br/>&lt;<a href="http://www.google.com.au/url?sa=t&amp;rct=j&amp;q=&amp;esrc=s&amp;source=web&amp;cd=1&amp;ved=0CB4QFjAA&amp;url=http%3A%2F%2Fwww.panda.org%2Fdownloads%2Fmarine%2Fhighseas.pdf&amp;ei=fejZU_LEAYbi8AX0yIK4Cw&amp;usg=AFQjCNE3xxmcdMouu07u01bS9z5dkj4UqQ&amp;bvm=bv.72185853.d.dGc">http://www.google.com.au/url?sa=t&amp;rct=j&amp;q=&amp;esrc=s&amp;source=web&amp;cd=1&amp;ved=0CB4QFjAA&amp;url=http%3A%2F%2Fwww.panda.org%2Fdownloads%2Fmarine%2Fhighseas.pdf&amp;ei=fejZU_LEAYbi8AX0yIK4Cw&amp;usg=AFQjCNE3xxmcdMouu07u01bS9z5dkj4UqQ&amp;bvm=bv.72185853.d.dGc</a>&gt;</p> <p>*NB: if this link doesn't work, type the title into Google and click the first link (panda.org)</p> <p>Online Forum Questions</p> <ol style="list-style-type: none"> <li>1. (How) does biodiversity differ between freshwater and marine environments and how can the law effectively regulate for each?</li> <li>2. What are natural resources on the High Seas and how are they protected?</li> </ol> <p>** On-campus intensive</p>   |
| <p>Week<br/>8</p> | <p>*Mid-semester break</p>  |
| <p>Week<br/>9</p> | <p>Module 8: International Marine Law Framework (07.10.14)</p> <p>This module introduces the United Nations Convention on the Law of the Sea (UNCLOS) and looks broadly at its provisions. In addition, we will consider international actors and institutions involved in oceans governance.</p> <p>Readings:</p> <p>Peter Bautista Payoyo (ed), Ocean governance: sustainable development of the Seas (1994, United Nations University Press)<br/>&lt;<a href="http://archive.unu.edu/unupress/unupbooks/uu15oe/uu15oe00.htm">http://archive.unu.edu/unupress/unupbooks/uu15oe/uu15oe00.htm</a>&gt;</p> <p>UNCLOS (download from)&lt;<a href="http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm">http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm</a>&gt; (the Convention will be needed for most weeks in the second half of this course)</p> <p>United Nations Convention on the Law of the Sea, 'An Historical Perspective' (1998)&lt;<a href="http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm">http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm</a>&gt;</p> <p>International Tribunal for the Law of the Sea &lt;<a href="https://www.itlos.org/index.php?id=2&amp;L=0">https://www.itlos.org/index.php?id=2&amp;L=0</a>&gt; (research the tribunal, cases and jurisdiction using the headings on the left of the page)</p> <p>Online Forum Questions</p> <ol style="list-style-type: none"> <li>1. Consider the challenges that a Convention such as UNCLOS faces in overseeing management outside traditional legal jurisdictions.</li> <li>2. Identify the key actors and institutions involved in oceans governance, relying on a particular case as an example.</li> </ol> |

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| Week | Module 9: Regional approaches to the protection of marine environments (13.10.14)  |
| 10   | <p>This module considers regional approaches to marine governance including the Regional Seas Programme. We will consider the South Pacific region in particular.</p> <p>Readings</p> <p>UNEP Regional Seas Programme <a href="http://www.unep.org/regionalseas/">http://www.unep.org/regionalseas/</a></p> <p>Pacific Islands Regional Ocean Policy <a href="http://www.spc.int/piocean/forum/New/policy2.htm">http://www.spc.int/piocean/forum/New/policy2.htm</a></p> <p>Pacific Islands Regional Ocean Forum <a href="http://www.spc.int/piocean/forum/New/forum.htm">http://www.spc.int/piocean/forum/New/forum.htm</a></p> <p>South Pacific Regional Fishery Management Organisation <a href="http://www.southpacificrfmo.org/">http://www.southpacificrfmo.org/</a></p> <p>SPREP <a href="http://www.sprep.org/">http://www.sprep.org/</a></p> <p>Erika Techera, 'Customary Law and Community-Based Fisheries Management Across the South Pacific Region' (2009) Journal of the Australasian Law Teachers Association 279.</p> <p>Questions</p> <ol style="list-style-type: none"><li>1. Describe the key differences between regional and international approaches to marine governance and biodiversity regulation.</li><li>2. What challenges are faced by regional players in the conservation and preservation of marine biodiversity?</li></ol> |

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| Week | Module 10: Marine Species Case Study – Whales v Sharkes (27.10.14)   |
| 11   | <p>This module looks specifically at the international regulation of whaling as an industry and the differences between that regime and the conservation of sharks.</p> <p>Readings</p> <p>'Two things to remember as the World Court rules on Japan's whaling' International Fund for Animal Welfare <a href="http://www.ifaw.org/australia/news/two-things-remember-world-court-rules-japan's-whaling">http://www.ifaw.org/australia/news/two-things-remember-world-court-rules-japan's-whaling</a></p> <p>Convention on Migratory Species - Sharks &lt;<a href="https://www.hsi.org.au/go/to/147/convention-on-migratory-species-sharks.html#U9n78NwxbKg">https://www.hsi.org.au/go/to/147/convention-on-migratory-species-sharks.html#U9n78NwxbKg</a>&gt;</p> <p>2nd Meeting on International Cooperation on Migratory Sharks under the Convention on Migratory Species 2008:</p> <ul style="list-style-type: none"><li>• Statement on the Outcome of the Meeting (2008) &lt;<a href="http://www.cms.int/sites/default/files/document/SHK2_Statement_on_outcome_of_the_Meeting_E_0.pdf">http://www.cms.int/sites/default/files/document/SHK2_Statement_on_outcome_of_the_Meeting_E_0.pdf</a>&gt;</li></ul> <p>Andrew Hutchinson "Baleen out the IWC: International Litigation an effective strategy for halting the Japanese scientific whaling program?" (2006) 3(2) MqJICEL 1 <a href="http://www.law.mq.edu.au/html/MqJICEL/vol3/2_01Hutchinson.pdf">http://www.law.mq.edu.au/html/MqJICEL/vol3/2_01Hutchinson.pdf</a></p> <p>FAO International Plan of Action for the Conservation and Management of Sharks <a href="http://www.fao.org/docrep/006/x3170e/x3170e03.htm">http://www.fao.org/docrep/006/x3170e/x3170e03.htm</a></p> <p>Stanley Johnson, International Protection for World's Sharks, Telegraph 28 December 2007 <a href="http://www.telegraph.co.uk/earth/main.jhtml?xml=/earth/2007/12/28/eashark128.xml">http://www.telegraph.co.uk/earth/main.jhtml?xml=/earth/2007/12/28/eashark128.xml</a></p> <p>Erika Techera, 'Advancing the Global Governance of Sharks' (2013) 28(9) Australian Environment Review 777</p> <p>E J Techera &amp; N Klein, 'Fragmented Governance: Reconciling legal strategies for shark conservation and management' (2011) 35(1) Marine Policy 73</p> <p>Resources</p> <ul style="list-style-type: none"><li>• International Convention on the Regulation of Whaling <a href="http://www.iwcoffice.org/commission/convention.htm">http://www.iwcoffice.org/commission/convention.htm</a></li><li>• The Schedule of the International Convention for the Regulation of Whaling as amended <a href="http://www.iwcoffice.org/commission/schedule.htm">http://www.iwcoffice.org/commission/schedule.htm</a></li><li>• Humane Society International – Sharks accessed 17 March 2008 <a href="http://www.hsi.org.au/protection_wildlife&amp;habitat/Marine%20Wildlife,%20Their%20Habitats%20and%20Threats/Sharks.htm">http://www.hsi.org.au/protection_wildlife&amp;habitat/Marine%20Wildlife,%20Their%20Habitats%20and%20Threats/Sharks.htm</a></li></ul> <p>Online Forum Questions:</p> <ol style="list-style-type: none"><li>1. List some reasons that shark conservation has proven more challenging than that of whale conservation</li><li>2. What are some legal challenges faced in shark conservation and management?</li></ol> |

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|------|---|
| Week | Module 11: Australian approaches to marine governance (03.11.14)  |
| 12   | <p>This module considers the approaches that Australia has taken to protecting the marine environment and its biodiversity including marine protected areas and integrated coastal zone management.</p> <p>Readings</p> <p>D Rothwell and S Kaye, "A Legal Framework for Integrated Oceans and Coastal Management In Australia" (2001) 18(3) Environmental and Planning Law Journal 278</p> <p>P. Baelde, "Interactions between the implementation of marine protected areas and right- based fisheries management in Australia" (2005) 12 Fisheries Management and Ecology 9</p> <p>Australian State of the Environment Report 2006 - Chapter 6 Oceans and Coasts &lt;<a href="http://www.environment.gov.au/soe/2006/publications/report/index.html">http://www.environment.gov.au/soe/2006/publications/report/index.html</a>&gt;</p> <p>Bob Kearney "The Pros and Cons of Marine Protected Areas in NSW: Who's been Hoodwinked?" accessible at &lt;<a href="http://tools.weeklytimesnow.com.au/yoursay/comment_all.php?article_id=379625">http://tools.weeklytimesnow.com.au/yoursay/comment_all.php?article_id=379625</a>&gt;</p> <p>Resources</p> <ul style="list-style-type: none"><li>• National Strategy for Ecologically Sustainable Development - Chapter 2 Fisheries Ecosystem Management and Chapter 17 Coastal Zone Management</li><li>• FISHERIES MANAGEMENT ACT 1991 (Cth)</li><li>• FISHERIES ADMINISTRATION ACT 1991 (Cth)</li><li>• ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (Cth)</li><li>• COASTAL PROTECTION ACT 1979 (NSW)</li></ul>  |
| Week | Module 12: Cross-cutting issues – Indigenous people and community-based marine management   |
| 13   | <p>This module overviews the role that Indigenous people play in marine governance and the importance of marine biodiversity to Indigenous people. There is also scope to explore issues relating to Indigenous peoples, the environment, and freshwater law.</p> <p>Readings</p> <p>Lauren Butterly, 'Changing Tack: Akiba and the way forward for Indigenous Governance of Sea Country' (2013) 17(1) Australian Indigenous Law Review 2</p> <p>Stuart B. Kaye, 'Indigenous Rights in Australian Waters: Native Title at Sea' in Marcus Haward (editor) Integrated Oceans Management: Issues in Implementing Australia's Oceans Policy (2001)</p> <p>Dermot Smyth, 'Just Add Water? Taking Indigenous Protected Areas into Sea Country' (2007)&lt;<a href="http://www.aiatsis.gov.au/files/research/publications/ProtectingCountry8.pdf">http://www.aiatsis.gov.au/files/research/publications/ProtectingCountry8.pdf</a>&gt;</p> <p>Erika Techera, 'Samoa: Law, Custom and Conservation' (2006) 10 NZJEL accessible at SSRN: <a href="http://ssrn.com/abstract=1099594">http://ssrn.com/abstract=1099594</a></p> <p>Peter Wulf, 'Indigenous commercial fishing rights in Queensland: When is commercial "traditional"?' (2006) 23 Environmental Planning Law Journal 433</p> <p>Suzanne von der Porten and Rob C de Loe, 'Water policy reform and indigenous governance' (2014) 16(2) Water Policy 222</p> <p>Poh-Ling Tan and Sue Jackson, 'Impossible dreaming – does Australia's water law and policy fulfill Indigenous aspirations' (2013) 30 Environmental and Planning Law Journal 132.</p> <p><b>SUBMISSION DATE OF FINAL ASSIGNMENT?</b></p> |

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## **Student Code of Conduct**

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## **Student Support**

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## **Learning Skills**

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## **Student Services and Support**

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## **Student Enquiries**

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## **IT Help**

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

#### Learning outcomes

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;
- Explain and critically assess the role played by law in dealing with biodiversity conservation, use and management issues;
- Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;

#### Assessment tasks

- Online Forum Participation
- Class Participation
- Presentation
- Written Essay
- Written Essay

### PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

#### Learning outcomes

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Explain and critically assess the role played by law in dealing with biodiversity



conservation, use and management issues;

- Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;

## **Assessment tasks**

- Online Forum Participation
- Presentation
- Written Essay
- Written Essay

## **PG - Research and Problem Solving Capability**

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;
- Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;
- Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;
- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## **Assessment tasks**

- Online Forum Participation
- Class Participation
- Presentation
- Written Essay
- Written Essay

## PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

### Learning outcomes

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Explain and critically assess the role played by law in dealing with biodiversity conservation, use and management issues;
- Demonstrate critical thinking and problem solving skills through an analysis of key international environmental issues in the global environmental governance of freshwater and marine biodiversity;
- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

### Assessment tasks

- Online Forum Participation
- Presentation
- Written Essay
- Written Essay

## PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

### Learning outcomes

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;

- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## **Assessment tasks**

- Online Forum Participation
- Presentation
- Written Essay
- Written Essay

## **PG - Capable of Professional and Personal Judgment and Initiative**

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate their understanding of the theoretical concepts and approaches underlying the management of freshwater and marine biodiversity;
- Display the ability to apply these theoretical concepts to current freshwater and marine environmental law issues;
- Display a thorough knowledge of existing global laws that apply to freshwater and marine biodiversity and the challenges involved in effectively implementing them;
- Make recommendations of law reform and/or further research needed to address issues in freshwater and marine biodiversity taking into account the perspectives of various actors.

## **Assessment tasks**

- Online Forum Participation
- Class Participation
- Presentation
- Written Essay
- Written Essay

## **Extensions and Special Considerations**

### Disruptions to Study and Special Consideration

Unit Convenors must grant appropriate Special Consideration in all cases where the University

has found that a disruption is *serious and unavoidable*. The schedule for disruptions to study specifies what this ‘special consideration’ is in relation to the type of assessment that has been disrupted.

1. When the disruption has been found to be ‘serious and unavoidable’:

**Box 1**

|    | ASSESSMENT  | RESULT OF DISRUPTION                    | SPECIAL CONSIDERATION  |
|----|---|---|--|
| 1. | <b>Marked Attendance:</b> lecture, tutorial, on campus session, field trip, practicum                                   | <b>Absence</b>                          | <b>Waive attendance requirement</b>  |
| 1. | <b>Graded Participation:</b> tutorial, class, lecture   | <b>Absence</b>                          | <b>Provision of additional assessment task</b>   |
| 1. | <b>In Class Assessment:</b> tutorial, class, lecture  | <b>Absence</b>                          | <b>Provision of additional assessment task</b>   |
| 1. | <b>Final Examination</b>  | <b>Absence</b>                          | <b>Provision of additional assessment task; supplementary exam</b>   |
| 1. | <b>Final Examination</b>  | <b>Examination performance affected</b> | <b>Provision of additional assessment task; supplementary exam</b>   |
| 1. | <b>Final Examination</b>  | <b>Preparation affected</b>             | <b>Provision of additional assessment task; supplementary exam</b>   |
| 1. | <b>Assessment Task</b> (other than final examination tutorial, class test, lecture, examination, other assessment task) | <b>Preparation affected</b>             | <b>Provision of additional assessment task</b>   |
| 1. | <b>Assessment</b> (other than final exam)<br>Result of disruption:  | <b>Late Submission</b>                  | <b>Extension of time to complete an assessment task; provision of an additional assessment task</b>                              |
| 1. | <b>Assessment</b> (other than final exam)   | <b>Ongoing impact on performance</b>    | <b>Extension of time to complete an assessment task; provision of an additional assessment task; recommendation to withdraw.</b> |

1. In cases where a disruption is found not to be *serious and unavoidable*, a Unit Convenor may still exercise discretion in granting Special Consideration. **The conditions and processes that apply to the granting of this discretionary Special Consideration are specified below** in accordance with the *Disruption to Studies Outcomes Schedule* to this Policy. Note the disruption to studies outcomes schedule provides the following:

**Box 2**

|    | ASSESSMENT  | RESULT OF DISRUPTION        | SPECIAL CONSIDERATION  |
|----|---|-----------------------------|--|
| 1. | <b>Marked Attendance:</b> lecture, tutorial, on campus session, field trip, practicum                                       | <b>Absence</b>              | <b>Lose 2% class participation for each day absent</b>   |
| 1. | <b>Graded Participation:</b> tutorial, class, lecture   | <b>Absence</b>              | <b>As class participation is worth 10% and must be fulfilled at the OCS, 5% of the mark will be lost for any missed day.</b> |
| 1. | <b>Assessment Task 30%</b> (other than final examination tutorial, class test, lecture, examination, other assessment task) | <b>Preparation affected</b> | <b>Penalty of 10% per day for every day of late submission</b>   |
| 1. | <b>Assessment – Final Research Essay (50%)</b> (other than final exam)  | <b>Late Submission</b>      | <b>It is Law School Policy to grade any late submissions where special consideration does not apply at zero.</b>             |

### Failure to Submit Work or Attend Classes

It should be noted that University regulations require that all classes, assignments and compulsory On-Campus sessions be satisfactorily attended and completed. Non-completion of any piece of work or non-attendance at a compulsory On-Campus Session for external students without sufficient excuse will result in an F grade.