



GSE 801

Environmental Law and Policy

S1 Evening 2014

Dept of Environment & Geography

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Disclaimer

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General Information

Unit convenor and teaching staff

Unit Convenor

Wendy Goldstein

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E8A 372

Open: By appointment

Unit Convenor

John Whitehouse

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jfwhitehouse@bigpond.com

Credit points

4

Prerequisites

Admission to MEnv or PGDipEnv or PGCertEnv or MEnvEd or PGDipEnvEd or PGCertEnvEd or MEnvMgt or PGCertEnvMgt or MEnvStud or PGDipEnvStud or MEnvPlan or MEnvSc or MPP or PGDipPP or MSusDev or PGDipSusDev or PGCertSusDev or MClimCh or MWldMgt or PGDipWldMgt or PGCertWldMgt or MMarScMgt or MSc in (Remote Sensing and GIS or Environmental Health) or PGDipSc in (Remote Sensing and GIS or Environmental Health) or PGCertSc in (Remote Sensing and GIS or Environmental Health)

Corequisites

Co-badged status

Unit description

This unit provides an introductory overview to environmental law at an international, Commonwealth and New South Wales level. The subject of environmental law covers a wide area including: natural resources management, nature conservation, land use and town planning, local government, pollution and heritage. The unit provides a basic understanding of environmental law to students from a broad range of disciplines. The unit will assist students in understanding the legal framework affecting all environmental practitioners and bring an understanding of the policies underlying environmental law.

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:

An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.

An understanding of the principles and theoretical basis of environmental law.

An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.

A practical understanding of the role of environmental law in the context of environmental decision-making

Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate

Able to Critically analyse cases and real life development problems

Able to analyse a factual situation and identify potential solutions

Able to employ innovative approaches to resolve environmental problems

Assessment Tasks

Name	Weighting	Due
Assignment 1	10%	April 8th
Assignment 2	40%	May 6th
Assignment 3	40%	June 10th
Class Assessment 4	10%	N/A

Assignment 1

Due: **April 8th**

Weighting: **10%**

Written component (short commentary on set readings)

Length: 1500 words

Assignment 1 is designed to ensure students develop skills to read, analyse and understand court judgments. Given the significant number of court judgments reviewed in this unit, a sound understanding of how to read, analyse and assess judgments is a fundamental skill.

Note further details and reading will be provided to enrolled students

On successful completion you will be able to:

- An understanding of the principles and theoretical basis of environmental law.
- Able to analyse a factual situation and identify potential solutions

Assignment 2

Due: **May 6th**

Weighting: **40%**

An essay on one of a range of topics on environmental law and policy.

Length: 3000 words

Assignment 2 provides an opportunity for students to specialise and explore in depth a specific area of their choice from a number of essay questions. It is designed to develop research and analysis skills in a policy area and provide an opportunity for original thought.

It is designed to develop problem-solving skills for a development problem and to provide a choice of research topics for detailed consideration and original analysis.

Note further information on this assessment and references will be provided to enrolled students.

On successful completion you will be able to:

- An understanding of the principles and theoretical basis of environmental law.
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

Assignment 3

Due: **June 10th**

Weighting: **40%**

The assignment involves preparing advice on the application of environmental legislation to particular development proposal

Length: 3,000 words

Assignment 3 provides an opportunity to advise on a specific development problem to develop skills in working with NSW planning law including the *Environmental Planning and Assessment Act* and environmental planning instruments.

It is designed to develop problem-solving skills for a development problem and to provide a choice of research topics for detailed consideration and original analysis.

More information and reading will be provided to students enrolled in the course.

On successful completion you will be able to:

- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- Able to Critically analyse cases and real life development problems
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

Class Assessment 4

Due: **N/A**

Weighting: **10%**

Participation in allocated class debate plus satisfactory class attendance (a minimum of 80% attendance)

Class Assessment provides an opportunity to develop oral presentation and argument skills for a particular policy question, while class attendance and participation is designed to demonstrate a student's active engagement in the unit.

On successful completion you will be able to:

- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- A practical understanding of the role of environmental law in the context of environmental decision-making
- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate

Delivery and Resources

Lecturers

The principal lecturer and course developer is

Mr John Whitehouse LL.B (Syd), BA (Syd), BSc (Macq), Grad Dip Leg Pr (UTS); Partner, Minter Ellison Solicitors, Visiting Fellow of the GraduateSchool of the Environment, Macquarie University. Associate, Department of Classics and Ancient History, Sydney University.

with guest lectures from

Mr Simon Ball, LL.B. (Hons 1) (UTS), B.Eng Civil and Environmental (Hons 2) (UTS), Grad. Dip. Leg. Pr., Partner, Minter Ellison

Dr James Smith, Legal Counsel, Transport for NSW. Accredited Specialist (Local Government & Planning Law), LLB (Hons 1) (UTS), B.Sc (Hon1) (UNSW), Ph.D (UNSW).

Mr Luke Walker, B.A. (Hons) (ANU), LL.B (Hons) (ANU), Grad Dip Leg Pr (COL), Senior Associate, Minter Ellison Solicitors

Contact John Whitehouse for all class and assessment enquiries via email to jfwhitehouse@bigpond.com

CLASSES

The unit will consist of thirteen sessions each of three hours duration. Attendance at each session is compulsory and constitutes part of the class assessment mark for the unit. After a couple of settling in weeks, each session will comprise initial student presentations/debates of a maximum of sixty minutes in total, followed by a short break, before returning to a mixture of lecture and class discussion. Preparation for each session is expected and will be assumed. Sessions are from **6.30 pm to 9.30 pm**.

PLEASE NOTE: In order to successfully complete this unit, students must attend at least 80% of scheduled lectures.

The timetable for classes can be found on the University web site at <http://www.timetables.mq.edu.au/>

REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

It is **recommended** that students purchase the following textbook for this course:

John Whitehouse, *Development and Planning Law in New South Wales*, CCH Australia Ltd, North Ryde, 2012.

In addition there are a number of additional texts covering the subject matter of this course.

None of these additional texts is required to be purchased by students. Students may wish to refer to these texts for an initial overview of some topics, general principles or for additional information and references.

Care must be taken however to check primary sources (legislation and case law) referred to in the texts since all commentary is quickly dated to the extent that it relies on such sources.

Gerry Bates, *Environmental Law in Australia* (8th ed, Lexis Nexis Butterworths, 2013)

David Farrier and Paul Stein (eds), *Environmental Law Handbook - Planning and Land Use in New South Wales* (5th ed, 2011, Thomson Reuters)

Doug Fisher, *Australian Environmental Law* (2003)

Zada Lipman and Gerry Bates, *Pollution Law in Australia* (Lexis Nexis Butterworths, 2002)

Ben Boer and Graeme Wiffen, *Heritage Law in Australia*, Oxford University Press, South Melbourne, 2006.

Rosemary Lyster, Zada Lipman, Nicola Franklin, Graeme Wiffen and Linda Pearson, *Environmental and Planning Law in New South Wales*, Third Edition, Federation Press, Sydney,

2012.

Leslie A Stein, *Principles of Planning Law*, Oxford University Press, South Melbourne, 2008.

Students will be provided with a detailed Lecture Outline and Reading List, plus selected reading materials through ilearn.

Unit participants are required to obtain the key NSW legislative provisions covered in the unit:

- Environmental Planning and Assessment Act, 1979 as amended;
- Environmental Planning and Assessment Regulation, 2000

Copies of this legislation (including all amendments) may be downloaded from the web <http://www.legislation.nsw.gov.au/>

The Macquarie University Library has Law database facilities that contain Law Reports, legislation, digests of legal developments, abstracts and full-texts of articles, etc. at http://www.mq.edu.au/on_campus/library/research/research_databases/.

Choose databases by area of study e.g. Law or Environment, or general topic Multi-subject or format eg. Newspapers, Theses etc or type in the name of a specific database e.g. Lexis Nexis.

Other Resources

The details of readings for each class are provided to enrolled students through ilearn.

Comparison to 2013

In 2014, GSE801 has a similar structure and content, but is updated to take account of recent policy and legislative changes and recent judicial decisions

Technology

Internet access and computer are required to access the ilearn site, which holds additional information on readings for each session and assessments, web based documents, and law databases

Unit Schedule

Week	Date	Topic
1	March 4	Law and the legal system
2	March 11	What is environmental law and policy?
3	18	International environmental law

4	25	Commonwealth environmental law
5	April 1	Environmental planning instruments
6	April 8	Development assessment process Assignment 1 due – hand to unit convenor in class
		MID-SEMESTER BREAK 14-26 APRIL
7	April 29	Applying planning instruments
8	May 6	Environmental Impact Assessment Assignment 2 due – hand to unit convenor
9	May 13	Existing uses and Inquiries
10	20	Land management, conservation and cultural heritage law
11	27	Environmental protection (pollution control) legislation
12	June 3	Environmental protection and waste administration
13	June 10	Land and Environment Court Assignment 3 due – hand to unit convenor

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

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

Disruption to Studies Policy 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/

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) 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

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

- An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
- An understanding of the principles and theoretical basis of environmental law.

Assessment tasks

- Assignment 1
- Assignment 2
- Assignment 3
- Class Assessment 4

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

- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to Critically analyse cases and real life development problems
- Able to employ innovative approaches to resolve environmental problems

Assessment tasks

- Assignment 1
- Assignment 3
- Class Assessment 4

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

- An overview of the subject suitable for professionals practising in the area of

environmental management who are not lawyers.

- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to Critically analyse cases and real life development problems
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

Assessment tasks

- Assignment 2
- Assignment 3

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 outcome

- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate

Assessment tasks

- Assignment 1
- Assignment 2
- Assignment 3
- Class Assessment 4

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

- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.

- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate
- Able to analyse a factual situation and identify potential solutions

Assessment tasks

- Assignment 2
- Assignment 3
- Class Assessment 4

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

- An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to Critically analyse cases and real life development problems

Assessment tasks

- Assignment 1
- Assignment 3