



# LAW 859

## Heritage Law and Policy

S1 External 2014

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Unit Convenor

Robert Stokes

[robert.stokes@mq.edu.au](mailto:robert.stokes@mq.edu.au)

Contact via [robert.stokes@mq.edu.au](mailto:robert.stokes@mq.edu.au)

Credit points

4

Prerequisites

Admission to MEnvLaw or PGDipEnvLaw or PGCertEnvLaw or MIntEnvLaw or PGDipIntEnvLaw or PGCertIntEnvLaw or MPP or PGDipPP 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 examines the concept of heritage and the various mechanisms for conservation of natural and cultural, intangible and tangible, elements of heritage. Specific areas include world heritage, underwater cultural heritage, movable heritage, Indigenous conceptions of heritage, intangible heritage and cultural expression. Legal regimes for heritage conservation at international, national, state and local levels are examined and case studies are used to illustrate the policy tensions inherent in environmental decision making in this area. International initiatives to address issues in heritage conservation are examined and the challenges to effective implementation in developed and developing countries assessed.

## 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 a thorough understanding of the philosophical and contextual frameworks which shape definitions of heritage

Display a sound knowledge of the scope of natural and cultural heritage, including

intangible, tangible (moveable and immoveable), Indigenous and underwater heritage

Display a thorough knowledge of existing global laws to conserve heritage and the challenges involved in effectively implementing them

Demonstrate an enquiring, critical and creative approach to established heritage law and policy

Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors

Make a sound assessment of heritage conservation under the Australian legal system at Federal, State and local government levels and in particular the policy rationales which underpin domestic/national legal responses to heritage

## Assessment Tasks

Name	Weighting	Due
<u>Assessment One</u>	10%	On campus session
<u>Assessment Two</u>	30%	28th April 2014
<u>Assessment Three</u>	60%	9th June 2014

### Assessment One

Due: **On campus session**

Weighting: **10%**

Class participation will be assessed on the basis of involvement in the on campus sessions. Students should ensure they have completed the required reading for each session before the on campus sessions commence, and be prepared to discuss this material in each session. Specific questions are set out in the *Course Schedule and Reading List* and should be prepared in advance. But students should be prepared to participate in further discussion and analysis beyond the set questions. Students will not be awarded participation marks just for attending class. The following non-exhaustive list of criteria will be used to assess your class participation:

- The level of preparedness for each on campus session assessed by your responses to questions and answers and opinions offered throughout 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 arguments 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 Convener 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 sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable), Indigenous and underwater heritage
- Display a thorough knowledge of existing global laws to conserve heritage and the challenges involved in effectively implementing them
- Demonstrate an enquiring, critical and creative approach to established heritage law and policy
- Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors

## Assessment Two

Due: **28th April 2014**

Weighting: **30%**

*“Adopting a standard definition of cultural heritage would facilitate a uniform understanding of the nature of its subject matter and the development of a coherent international legal framework for its protection”.*

Critically assess this comment with reference to the different definitions in 2 treaties or other international instruments. Consider the problems associated with the diverse range of current definitions, advantages and disadvantages of a standard definition and proposals for the future. Students should utilise the course readings and additional references as set out on the *Course Schedule and Reading List* but some further research should also be undertaken.

The paper should be well structured including sub-headings where appropriate. The introduction should set out the scope of the paper. Be sure to answer the question asked. The essay should be fully referenced according to the Australian Guide to Legal Citation. [Maximum Word Length 3,000 words.]

On successful completion you will be able to:

- Demonstrate a thorough understanding of the philosophical and contextual frameworks

which shape definitions of heritage

- Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immoveable), Indigenous and underwater heritage
- Display a thorough knowledge of existing global laws to conserve heritage and the challenges involved in effectively implementing them
- Demonstrate an enquiring, critical and creative approach to established heritage law and policy
- Make a sound assessment of heritage conservation under the Australian legal system at Federal, State and local government levels and in particular the policy rationales which underpin domestic/national legal responses to heritage

## Assessment Three

Due: **9th June 2014**

Weighting: **60%**

Students are to complete an independent research paper on a topic of their choice related to this Unit. This task allows students to undertake in depth research and analysis of a specific aspect of heritage 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 5 May 2014. This is for your benefit to ensure that the topic is suitable and the structure and content appropriate.

The paper should be well structured including sub-headings where appropriate. The introduction should set out the scope of the paper. 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. [Maximum Word Length 6,000 words.]

On successful completion you will be able to:

- Demonstrate an enquiring, critical and creative approach to established heritage law and policy
- Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors
- Make a sound assessment of heritage conservation under the Australian legal system at Federal, State and local government levels and in particular the policy rationales which underpin domestic/national legal responses to heritage

## Delivery and Resources

You will find all resources and required reading list in the online unit available at [ilearn.mq.edu.au](http://ilearn.mq.edu.au).

## Unit Schedule

ON CAMPUS SESSION DATES: 15<sup>th</sup> – 17<sup>th</sup> April 2014 INCLUSIVE.

**All students** participating in the on-campus session **must sign in** between 8:30-8:50am with the **Centre for Open Education** (COE) in Building X5B first thing on 15<sup>th</sup> April 2013 and ALL students should check with COE for the room location for the on-campus session. Attendance and participation at these sessions is compulsory.

Tuesday 15<sup>th</sup> April 2014

9.00-10.00      **Introduction, consideration of the meaning of heritage**

10.00-11.00      **Concepts and approaches to heritage law and policy**

11.00-11.30      MORNING COFFEE

11.30-12.30      **International Heritage Law Framework**

12.30 - 1.30      LUNCH

1.30 - 2.30      **The World Heritage Convention**

2.30 - 3.30      **Safeguarding Intangible Cultural Heritage**

3.30 – 4.00      AFTERNOON TEA

4.00 – 5.00      **Moveable Cultural Heritage**

Wednesday 16<sup>th</sup> April 2014

9.00 - 10.30 **Australian Commonwealth Heritage Law**

10.30 -11.00 MORNING COFFEE

11.00 -12.30 **Australian State and Local Heritage Law**

12.30 - 1.30 LUNCH

1.30 - 3.00 **Underwater Cultural Heritage**

3.00 –3.30 AFTERNOON TEA

3.30 - 5.00 **Indigenous People, Culture and Heritage**

Thursday 17<sup>th</sup> April 2014

10.00-11.00 **Cross Cutting Issues: Climate Change**

11.00 -12.00 **Cross Cutting Issues: Heritage Tourism**

12.00-1.00 **Cross Cutting Issues: Heritage, Populism and Participation**

1.00 - 2.00 LUNCH

2.00 - 4.00 **Discussion of Research Paper Topics, Structure and Style**

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**Saturday 26<sup>th</sup> April – OPTIONAL FIELD TRIP TO CURRAWONG, PITTWATER**

Students must notify the Convenor by 17<sup>th</sup> April whether or not they wish to take part in the Field Trip. Provided there are sufficient numbers, students will visit Currawong Workers Camp on Pittwater and the adjacent Ku-ring-gai Chase National Park.

## 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 a thorough understanding of the philosophical and contextual frameworks which shape definitions of heritage
- Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable), Indigenous and underwater heritage
- Display a thorough knowledge of existing global laws to conserve heritage and the challenges involved in effectively implementing them
- Make a sound assessment of heritage conservation under the Australian legal system at Federal, State and local government levels and in particular the policy rationales which underpin domestic/national legal responses to heritage

### 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 a thorough understanding of the philosophical and contextual frameworks which shape definitions of heritage
- Demonstrate an enquiring, critical and creative approach to established heritage law and policy
- Make a sound assessment of heritage conservation under the Australian legal system at Federal, State and local government levels and in particular the policy rationales which underpin domestic/national legal responses to heritage

## **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**

- Display a thorough knowledge of existing global laws to conserve heritage and the challenges involved in effectively implementing them
- Demonstrate an enquiring, critical and creative approach to established heritage law and policy
- Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors
- Make a sound assessment of heritage conservation under the Australian legal system at Federal, State and local government levels and in particular the policy rationales which underpin domestic/national legal responses to heritage

## **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 a thorough understanding of the philosophical and contextual frameworks which shape definitions of heritage

- Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable), Indigenous and underwater heritage
- Display a thorough knowledge of existing global laws to conserve heritage and the challenges involved in effectively implementing them
- Demonstrate an enquiring, critical and creative approach to established heritage law and policy
- Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors

## 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

- Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable), Indigenous and underwater heritage
- Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors

## 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 outcome

- Make recommendations for law reform and/or further research needed to address issues in international; national; and local heritage conservation taking into account the perspectives of various actors