



# LAW 855

## Environmental Law and Sustainable Development

S1 External 2014

*Dept of Law*

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#### Disclaimer

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## General Information

Unit convenor and teaching staff

Unit Convenor

Andrew Burke

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Credit points

4

Prerequisites

Admission to MEnvLaw or PGDipEnvLaw or PGCertEnvLaw or MIntEnvLaw or PGDipIntEnvLaw or PGCertIntEnvLaw or MIntRel or MWldMgt or PGDipWldMgt or LLM in Environmental Law or MSocEntre or PGCertSocEntre 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

The unit provides an introduction to environmental policy, philosophy, and the legal system. Environmental law has evolved into a large and rapidly developing field. International standards and laws are often absorbed into Australian environmental law with surprising speed. Students can approach this subject as an essential dimension of international law, constitutional law, common law, administrative law, or property law. Human rights and the deepening divide between North and South in our globalised world are also enduring issues. Environmental law can also be approached 'defensively' as a reaction to exploitative growth and ecologically destructive projects. Much of the early environmental law had this focus. The unit also highlights the importance of interdisciplinary approaches to law and the need to incorporate legal frameworks into wider and practical strategies for ecological sustainability.

## 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:

Identify and critique key ethical and interdisciplinary perspectives on the environment.

Describe and analyse the history of environmental law and regulation, including the

emergence of sustainable development as a key principle.

Define and critique different styles of environmental regulation and the regulatory tools available.

Recognise and assess how environmental law is affected by the Australian legal framework (including an awareness of relevant international law).

Identify and interpret the most important cases and statutes in Australian environmental law and critique their content and significance.

Identify and analyse the major challenges facing environmental law.

Analyse and prepare sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## Assessment Tasks

Name	Weighting	Due
<u>Short think-piece</u>	20%	Wednesday 26 March
<u>Class participation</u>	20%	At the on-campus session
<u>Research Essay</u>	60%	Thursday 12 June

### Short think-piece

Due: **Wednesday 26 March**

Weighting: **20%**

A short early-assessment essay on a philosophical, moral, or historical topic related to environmental law. Topics will be posted on iLearn in Week 2. This is meant as a reflective “ideas essay” (a student’s own ideas!), rather than a research essay, but some reading and referencing will be required. Length: **1,500 words**. Both this assignment and the research report are to be submitted through Turnitin.

On successful completion you will be able to:

- Identify and analyse the major challenges facing environmental law.

### Class participation

Due: **At the on-campus session**

Weighting: **20%**

Students are expected to discuss relevant materials in class and answer lecture and tutorial questions and problems. They are also expected to engage with other students and the convenor/tutor in an appropriate way that involves analysis of the assigned material; and to attempt informed responses to occasional questions posed by the convenor/tutor or other

students in class. Students will not be awarded the class participation mark simply for attending class. Please be aware that tutorial attendance is compulsory and that a roll will be taken each day.

On successful completion you will be able to:

- Identify and critique key ethical and interdisciplinary perspectives on the environment.
- Describe and analyse the history of environmental law and regulation, including the emergence of sustainable development as a key principle.
- Define and critique different styles of environmental regulation and the regulatory tools available.
- Recognise and assess how environmental law is affected by the Australian legal framework (including an awareness of relevant international law).
- Identify and interpret the most important cases and statutes in Australian environmental law and critique their content and significance.
- Identify and analyse the major challenges facing environmental law.
- Analyse and prepare sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## Research Essay

Due: **Thursday 12 June**

Weighting: **60%**

A research essay linked to unit outcomes and approved by the convenor. Length: **4,200 words**. Detailed instructions on the range of topics and on formatting and stylistic requirements will be posted early in the course. You might also propose your own topic for the convenor's approval. This is intended to be a thought-provoking exercise to stimulate students to explore in depth a topic of genuine interest to them.

Each student is required to **submit a one-page outline** of his or her chosen research topic, methods, and indicative sources, to the convenor for approval **by Monday 14 April**. More information on the format of the one-page outline will be posted early in the semester.

On successful completion you will be able to:

- Define and critique different styles of environmental regulation and the regulatory tools available.
- Identify and analyse the major challenges facing environmental law.

## Delivery and Resources

Every student must acquire a copy of the textbook, which will be used throughout the semester: G.Bates, *Environmental Law in Australia*, 8th ed., LexisNexis Butterworths, 2013.

Both assignments are to be submitted through Turnitin. You will find the Turnitin link for each assignment in the iLearn folder for the assignment.

Tutorial attendance is compulsory. Students taking this unit externally must attend the three-day on-campus session on 12-14 April, or they will fail the unit.

## **Unit Schedule**

### **Week 1**

#### **Introduction to unit**

#### **Structure and scope of environmental law**

*Required reading:* Text Chapters 1 & 2.

### **Week 2**

#### **Can legislation save the world?**

*Required reading:* Text Chapter 6.

### **Week 3**

#### **International environmental law**

*Required reading:* Text Chapter 4, and M. Soroos, 'Global institutions and the environment'. Posted on iLearn.

### **Week 4**

#### **Ecologically Sustainable Development**

*Required reading:* Text Chapter 7.

### **Week 5**

#### **Commonwealth environmental law**

*Required reading:* Text Chapter 5.

### **Week 6**

#### **Biodiversity protection, on & off-park**

*Required reading:* Text Chapters 11, 12 & 13.

## **Two week break and On-campus session April 12-14**

### **Week 7**

#### **Pollution & waste**

*Required reading:* Text Chapter 15.

### **Week 8**

#### **Mining law: Coal Seam Gas case study**

*Required reading:* Text Chapter 14.

### **Week 9**

#### **Climate Change**

*Required reading:* Text Chapter 16, and A.Zahar, "The climate change regime" (posted on iLearn).

### **Week 10**

#### **Indigenous People and Environmental Law**

*Required reading:* EDO, "Caring for Country; A Guide to Environmental Law for Aboriginal Communities in NSW"; P.Levin, "Toward Decolonizing Conservation", SNAP Magazine, and Prof. M.Langton, "Lecture 4: The conceit of wilderness ideology", 2012 Radio National Boyer Lectures. All posted to iLearn.

### **Week 11**

#### **Environmental Crime**

*Required reading:* Text Chapters 18 & 19, and R.Bartel, "Compliance and complicity: an assessment of the success of land clearance legislation in New South Wales" (2003) 20 *Environmental Planning and Law Journal* 116 (posted to iLearn).

### **Week 12**

#### **Limitations of Environmental Law**

*Required reading:* Text Chapter 20; Hon. Justice B.Preston, "Adapting to the impacts of climate change: The limits and opportunities of law", and O.Houck, "Retaking the Exam: How Environmental Law Failed New Orleans and the Gulf Coast South and How it Might Yet Succeed" (2006-07) 81 *Tulane Law Review* 1059. All posted to iLearn.

## Week 13

**Bulga-Milbrodale Progress Association Inc. v Minister for Planning and Infrastructure and Warkworth Mining Ltd - A complex and topical case study reflecting the themes of the course**

*Required reading:* The Global Mail Special Feature "The Town that Wouldn't Disappear". Posted to iLearn.

## 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/)

## Macquarie Law School Assessment Policy

In the absence of a successful application for special consideration, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero.

Word limits will be strictly applied and work above the word limit will not be marked. Footnotes are only to be used for referencing. Substantive material in footnotes will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## 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

- Describe and analyse the history of environmental law and regulation, including the emergence of sustainable development as a key principle.
- Recognise and assess how environmental law is affected by the Australian legal framework (including an awareness of relevant international law).



## 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

- Identify and critique key ethical and interdisciplinary perspectives on the environment.
- Define and critique different styles of environmental regulation and the regulatory tools available.
- Identify and interpret the most important cases and statutes in Australian environmental law and critique their content and significance.
- Identify and analyse the major challenges facing environmental law.

### Assessment task

- Class participation

## 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 outcome

- Define and critique different styles of environmental regulation and the regulatory tools available.

### Assessment task

- Research 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 outcome**

- Analyse and prepare sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## **Assessment tasks**

- Short think-piece
- Class participation

## **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**

- Identify and analyse the major challenges facing environmental law.
- Analyse and prepare sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## **Assessment task**

- Short think-piece

## **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**

- Identify and interpret the most important cases and statutes in Australian environmental law and critique their content and significance.

## **Assessment task**

- Research Essay