



LAW 865

Biodiversity and Biotechnology Law

S1 External 2014

Dept of Law

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General Information

Unit convenor and teaching staff

Unit Convenor

Judith Preston

judith.preston@mq.edu.au

Contact via judith.preston@mq.edu.au

N/A

By Appointment

Credit points

4

Prerequisites

Admission to MEnvLaw or PGDipEnvLaw or PGCertEnvLaw or MEnvMgt or MIntEnvLaw or PGDipIntEnvLaw or PGCertIntEnvLaw or LLM in (Environmental Law or International Environmental Law) or MSc in Biodiversity Conservation or PGDipSc in Biodiversity Conservation 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 will critically engage with the concepts of biodiversity and biotechnology from legal and interdisciplinary points of view. It will provide an overview of international instruments and current negotiations relevant to biodiversity, as well as to 'access and benefit-sharing' in genetic resources, especially the 1992 Convention on Biological Diversity (CBD). Legislation, policies, and programmes implemented in Australia and other countries in compliance with the CBD and related international instruments aimed at promoting and protecting biodiversity and regulating trade and intellectual property rights in this field will be examined and evaluated in case studies and court decisions.

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:

Understand and appreciate the value and role of biodiversity and biotechnology and the

need to preserve eco-system services for human and non-human species

To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels

To engage in and critically evaluate the management of biodiversity by local government

To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework

To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework

To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment Tasks

Name	Weighting	Due
<u>Class Presentation</u>	20%	April 28, 2014
<u>Field Trip</u>	30%	April 28 @ 9am and May 3 @ 4pm
<u>Research Paper</u>	50%	Friday May 30 at 9am

Class Presentation

Due: **April 28, 2014**

Weighting: **20%**

Students will prepare and deliver a 10-15 minute oral presentation on a topic linked to biodiversity protection and biotechnology regulation on Day 3 of the On Campus Session (OCS).

A written abstract of the intended topic must be approved by the Convener by no later than Day 1 of the OCS.

A written summary (up to 1,000 words) must be submitted at the conclusion of the oral presentation.

Each part of the task - oral presentation and written summary is worth 10% of the total of 20%

On successful completion you will be able to:

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species

- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework
- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Field Trip

Due: **April 28@9am and May 3 @4pm**

Weighting: **30%**

Students must attend a field trip to the Dalrymple- Hay Reserve at Pymble on Day 3 of the OCS being Friday April 28, 2014 between 9am-12noon. Students will learn about Kuring-gai Municipal Council's (KMC) efforts to manage and protect vulnerable areas of biodiversity within a highly urbanized area. The field trip will focus on a case study of KMC's management of the largest section of the remaining Blue Gum High Forest (BGHF). The BGHF has been selected as an example of an area which is listed both as a critically endangered ecological community under the Environmental Protection Biodiversity Conservation Act 1999 (Cth) (EPBC Act) and as an endangered ecological community in NSW under the Threatened Species Conservation Act 1995 (NSW) (TSC Act).

Students must prepare a reflective report critically evaluating KMC's performance in managing the biodiversity values of the BGHF and propose reform if appropriate.

The report should be typed, double spaced and contain appropriate legal referencing and a bibliography. The written report is due Monday May 5 at 4pm. The written report is worth 20% of the total mark for this assessment task of 30%

On successful completion you will be able to:

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in and critically evaluate the management of biodiversity by local government
- To engage in learning and assessment tasks which challenge assumptions about the

value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework

- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Research Paper

Due: **Friday May 30 at 9am**

Weighting: **50%**

Students will prepare a written research paper on a topic relevant to biodiversity protection and/or biotechnology regulation relevant to the issues raised in the Unit. Each student must submit an abstract of their proposed topic for approval by the Convener no later than the conclusion of Day 3 of the OCS. The maximum length of the paper is 6,000 words, with proper legal referencing (see The Australian Guide To Legal Citation- <http://www.law.unimelb.edu.au/files/dmfile/FinalOnlinePDF-2012Reprint.pdf>) and a bibliography.

On successful completion you will be able to:

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework
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Delivery and Resources

Delivery and Resources

Delivery: Day, Intensive

This unit will use: iLearn

Times and Locations for Lectures and Tutorials:

For current updates, lecture times and classrooms please consult the MQ Timetables website:

<http://timetables.mq.edu.au>

This course is scheduled to run as an intensive course from Saturday 26th of April 2014 to Monday 28th of April 2014.

REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

Recommended texts:

McManis C(ed) *Biodiversity and the law Intellectual property ,Biotechnolgy and Traditional Knowledge* Earthscan, Uk/USA, 2009

Jeffery M.J.& Ors (eds) *Biodiversity ,Conservation, Law and Livelihoods Bridging the North-South Divide* Cambridge University Press,2010

Rimmer M *Intellectual Property and Biotechnology* Edward Elgar Publishing 2011

Students may purchase these texts if they wish but they may be available for loan.

REQUIRED READING

McManis C (ed), "Biodiversity and the Law: Intellectual Property, Biotechnology and Traditional Knowledge", Earthscan, UK/USA, 2007 (Required text)

Novacek MJ, "The Biodiversity Crisis: Losing What Counts", The New Press, NY, 2001

Farrier and Stein, (eds), "The Environmental Law Handbook: Planning and Land Use in NSW", Redfern Legal Centre Publishing, Thomson Reuters, 2011, Ch. 10, 11

Preston BJ, "The Role of Law in the Protection of Biological Diversity in the Asia Pacific Region" (1995) 12 EPLJ 264

Bradsen J, "Biodiversity Legislation: Species, Vegetation, Habitat" (1992), 9 EPLJ 175

Australia's Biodiversity Conservation Strategy 2010-2030

<http://www.environment.gov.au/biodiversity/publications/strategy-2010-30/index.html>

Carroll E, "Implementation of the Convention on Biological Diversity by local

government in NSW" (2004), 9 LGLJ 186

Farrier D, "Implementing the In-Situ Conservation Provisions of the United Nations Convention on Biological Diversity in Australia" (1996), 3 Australasian Journal of Natural Resources Law and Policy, 1-24

New Biodiversity Strategy for NSW (2008)<http://www.environment.nsw.gov.au/biodiversity/nswbiostrategy.htm>

NSW Biodiversity Strategy 2010-2015

<http://www.environment.nsw.gov.au/resources/biodiversity/strategy/10821DraftBioStrat.pdf>

Steffen W, "United Nations Environmental Program (UNEP) Global Biodiversity Outlook 3" <http://www.cbd.int/gbo3/>

Australia's Biodiversity and Climate Change, CSIRO Publishing, 2009

FURTHER READING

McNeill JR, "Something New Under the Sun: An Environmental History of the Twentieth Century World", WW Norton & Co, NY/London, 2000

Lindenmayer D + Ors (eds), "Ten Commitments: Reshaping The Lucky Country's Environment", CSIRO Publishing, 2008, especially pp155-162

UNEP, "Emerging Issues for Biodiversity Conservation in a Changing Climate", CBD Technical Series No. 29, 2007

Kameri-Mbote AP and Cullet P, "Agro-Biodiversity and International Law - A Conceptual Framework", Journal of Environmental Law, Vol. 11, No. 1, Oxford University Press 1999 <http://www.ielr.org/content/a9901.pdf>

Bray Z, "Reconciling development and natural beauty: The promise and dilemma of conservation easements" (2010), 34 Harvard Environmental Law Review 119

Kelly AH & Stoianoff NP, "Biodiversity conservation, local government finance and differential rates: The good, the bad and the potentially attractive" (2009), 26 EPLJ 5

Peden E, "Conservation Agreements - Contracts or not?" (2008), 25 EPLJ 136

Fitzsimmons, JA, "Private Protected Areas? Assessing the suitability for incorporating conservation agreements over private land into the National Reserve System: A case study of Victoria" (2006), 23 EPLJ 365

Shearing S, "Taxation incentives for conservation covenants" (2006), 11 LGLJ 139

Sheehan J & Small J, "Biota and the Problem of Property" (2005), 22 EPLJ 158

Agius J, "Biodiversity Credits: Creating Missing Markets for Biodiversity" (2001), 18 EPLJ 481

Curran D, "The Conservation of Biological Diversity on Private Property in NSW" (2000), 17 EPLJ 34

Bryant T, "Utilisation of Native Flora and Fauna in Victoria: A Comparison of Models of Utilisation against the Existing Victorian Regulatory Regime" (1999), 16 EPLJ 385

Preston BJ, "The Role of Property Rights and Intellectual Property in the Conservation of Biological Diversity" in B Boer et al (eds), 'Environmental Outlook No. 2', Federation Press, Sydney, 1996

INTERNATIONAL CONVENTIONS

- Convention on Biological Diversity (1992) <http://www.cbd.int/convention/convention.shtml> <http://www.cbd.int/doc/legal/cbd-en.pdf>
- International Treaty on Plant Genetic Resources for Food + Agriculture <ftp://ftp.fao.org/docrep/fao/011/i0510e/i0510e.pdf>

OTHER BIODIVERSITY-RELATED TREATIES

- 1971 Ramsar Convention on Wetlands (RAMSAR)
- 1972 World Heritage Convention (WHC)
- 1973 Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)
- 1979 Bonn Convention on Migratory Species (CMS)
- International Conventions on Biodiversity www.theebi.org/pdfs/conventions.pdf

FEDERAL STATUTES

- Environmental Protection and Biodiversity Conservation Act 1999 (Cth)

STATE STATUTES

- National Parks and Wildlife Act 1974 (NSW)
- Environmental Planning & Assessment Act 1979 (NSW)
- Threatened Species Conservation Act 1995 (NSW)
- The Protection of Environment Operations Act 1997 (NSW)
- Water Management Act 2000 (NSW)

RECOMMENDED READING

Land and Environment Court of NSW website

<http://www.lawlink.nsw.gov.au> (**Biodiversity Link**)

Legal and Scientific Resources for Biodiversity

<http://www.elaw.org/resource/topic/382> (**Link: Resources**)

Ku-ring-gai Municipal Council:

<http://www.kmc.nsw.gov.au/www/html/505-biodiversity.asp>

<http://www.kmc.nsw.gov.au/www/html/202-research-studies-papers-andreports.asp>

Also look at: Hotbed of Diversity A3 Poster 2007, Bushland Priority Rating

Environmental Defender's Office Ltd: <http://edo.org.au/edonsw/site/factsheets.php>

Earth Policy Institute: <http://www.earthpolicyinstitute.org/>

Smithsonian Institute: Perspectives on Limits to Growth - Challenges to Building A Sustainable Planet: <http://www.si.edu.au/consortia/limitstogrowth2012/>

Yale Environment 360: <http://e360.yale.edu/>

UNIT WEBPAGE AND TECHNOLOGY USED AND REQUIRED

Online units can be accessed at: <http://ilearn.mq.edu.au>

PC and Internet access are required. Basic computer skills (e.g., internet browsing) and skills in word processing are also a requirement.

Please consult teaching staff for any further, more specific requirements.

ACADEMIC HONESTY

Academic honesty is an integral part of the core values and principles contained in the Macquarie University Ethics Statement: <http://www.mq.edu.au/ethics/ethic-statement-final.html>

Its fundamental principle is that all staff and students act with integrity in the creation, development, application and use of ideas and information. This means that:

- All academic work claimed as original is the work of the author making the claim.
- All academic collaborations are acknowledged.
- Academic work is not falsified in any way
- When the ideas of others are used, these ideas are acknowledged appropriately.

The link below has more details about the policy, procedure and schedule of penalties that will apply to breaches of the Academic Honesty Policy which can be viewed at:

http://www.mq.edu.au/policy/docs/academic_honesty/policy.html

STUDENT SUPPORT SERVICES

Macquarie University provides a range of Student Support Services. Details of these services can be accessed at:

<http://www.deanofstudents.mq.edu.au/> or <http://www.campuslife.mq.edu.au/campuswellbeing>

Another useful support service is provided by the Learning Skills unit which you can find at: <http://www.mq.edu.au/learningskills/>.

Arts Student Centre

Phone:	+61 2 9850 6783
Email:	artsenquiries@mq.edu.au
Office:	W6A/Foyer

Centre staff are there to smooth the way into university life; answer questions; give informed advice; provide a sympathetic ear; de-mystify uni ways and procedures.

The Faculty Assessment Coversheet and Arts online submissions for Special Approval, Special Consideration, Grade Review and Grade Appeal are located at: www.arts.mq.edu.au/current_students/undergraduate.

Unit Schedule

Day 1: Saturday 26 April 2014

Session 1: Introduction (9.00am - 10.00am)

- Unit aims and themes

- Assessment and penalties
- Oral presentation
- Field trip

Session 2: Concepts and definitions of biodiversity and biotechnology (10.30am - 1.00pm)

Lunch (1.00pm - 2.00pm)

Session 3: Key threats and strategies of biodiversity (2.00pm -4.00pm)

Session 4: International responses (4.00pm - 5.00pm)

- Convention on Biological Diversity and Protocols
- International Treaty on Plant Genetic Resources for Food and Agriculture

Day 2: Sunday 27 April 2014

Session 5: International responses continued (9.00 am - 10.30am)

- Convention on International Trade in Endangered Species of Wild Fauna and Flora
- Convention on Wetlands of International Importance
- Convention Concerning the Protection of the World Cultural and Natural Heritage

Session 6: National responses (11.00 am - 1.00pm)

- Environment Protection and Biodiversity Conservation Act 1995 (Cth)
- Federal regulation of biotechnology
- Gene Technology Act 2000 (Cth)

Lunch (1.00pm - 2.00pm)

Session 7: State responses (2.00pm - 3.30pm)

- State regulation of biodiversity and biotechnology

Session 8: Emerging issues (3.30pm - 5.00pm)

- Climate change
- biocultural protection- loss of indigenous language and impact on biodiversity protection

Day 3: Monday 28 April 2014

Session 9: Student presentations (9.00am - 12.30pm)

- Student presentations
- Research paper topics

Lunch (12.30pm - 1.30pm)

Field trip (1.30pm - 5.00pm)

- Field trip to Darymple Hay reserve (a Blue Gum High Forest endangered ecological

community), Mona Vale Road, Pymble (meet at Gordon station at 1.30pm)

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

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in and critically evaluate the management of biodiversity by local government
- To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework
- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment tasks

- Class Presentation
- Field Trip
- Research Paper

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

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in and critically evaluate the management of biodiversity by local government
- To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework
- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment tasks

- Class Presentation
- Field Trip
- Research Paper

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

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in and critically evaluate the management of biodiversity by local government
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- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment tasks

- Class Presentation
- Field Trip
- Research Paper

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

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To engage in and critically evaluate the management of biodiversity by local government
- To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework

- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment tasks

- Class Presentation
- Field Trip
- Research Paper

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

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
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- To be informed about how non-legal strategies for biodiversity protection and biotechnology regulation and the way in which they interact and complement the regulatory framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment tasks

- Class Presentation
- Field Trip

- Research Paper

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

- Understand and appreciate the value and role of biodiversity and biotechnology and the need to preserve eco-system services for human and non-human species
- To be informed about the purpose, scope and effect of law, policies and programmes protecting biodiversity and regulating biotechnology at international, national, state and local levels
- To engage in and critically evaluate the management of biodiversity by local government
- To engage in learning and assessment tasks which challenge assumptions about the value of biodiversity and biotechnology how protection is achieved in the global commons and propose reform to the institutional framework
- To consider and discuss current issues that affect biodiversity and biotechnology including climate change, pollution and bio-cultural heritage

Assessment tasks

- Class Presentation
- Field Trip
- Research Paper