



LAW 560

Environmental Law

S1 Day 2014

Dept of Law

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General Information

Unit convenor and teaching staff

Unit Convenor

Andrew Burke

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Credit points

3

Prerequisites

(6cp in LAW or LAWS units at 300 level) or (39cp including ENV267)

Corequisites

Co-badged status

Unit description

Environmental law has evolved as a huge and rapidly developing field, inextricably tied to ethical, scientific, political and policy developments. The unit provides an introduction to environmental policy, philosophy and the legal system with a focus on the evolution of modern approaches to sustainable development. It explores key issues, concepts and principles involved in developing legal frameworks supporting sustainable development. The history, interdisciplinary context and legal techniques and processes will be the main focus.

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 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 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 illustrate their content and significance.

Identify and express the major challenges facing environmental law.

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

Assessment Tasks

Name	Weighting	Due
<u>Research Essay</u>	60%	Thursday 12 June
<u>Short think-piece</u>	20%	Wednesday 26 March
<u>Class participation</u>	20%	Each week and at the OCS

Research Essay

Due: **Thursday 12 June**

Weighting: **60%**

A research essay linked to unit outcomes and approved by the convenor. Length: 3,800 words. Detailed instructions on the range of topics and on formatting and stylistic requirements will be posted early in the course. You can also submit 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:

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

Short think-piece

Due: **Wednesday 26 March**

Weighting: **20%**

A short early-assessment essay on a philosophical, moral and/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: 1,200 words. Both this assignment and the research report are to be submitted through Turnitin.

On successful completion you will be able to:

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

Class participation

Due: **Each week and at the OCS**

Weighting: **20%**

Students are expected to discuss relevant materials in class and answer tutorial questions and problems. They are also expected to engage with other students and the convenor in an appropriate way that involves analysis of the assigned material; and to attempt informed responses to occasional questions posed in class. Students will not be awarded the class participation mark simply for attending class. The same principles apply to the on-campus session. Please be aware that tutorial attendance is compulsory and that a roll will be taken each week.

On successful completion you will be able to:

- Identify and critique key ethical and interdisciplinary perspectives on the environment.
- Describe 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 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 illustrate their content and significance.

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. Internal students must attend at least 9 of the 11 tutorials, or you will fail the unit. Students taking this unit externally must attend the two-day on-campus session on 12-13 April, or you will fail the unit.

Unit Schedule

Week 1

Introduction to unit

Structure and scope of environmental law

Required reading: Text Chapters 1 & 2.

Note: No tutorial in Week 1.

Week 2

Can legislation save the world?

Required reading: Text Chapter 6.

Note: Tutorials for internal students start this week. Tutorial questions will be posted to iLearn a few days in advance.

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

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.

Note: No tutorial in Week 13.

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/

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) 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

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcome

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

Assessment tasks

- Research Essay
- Class participation

Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

Learning outcome

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

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcome

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

Assessment tasks

- Research Essay
- Class participation

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Describe the history of environmental law and regulation, including the emergence of

sustainable development as a key principle.

- Identify and express the major challenges facing environmental law.

Assessment task

- Class participation

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Assessment task

- Research Essay

Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

Assessment task

- Short think-piece

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Assessment tasks

- Research Essay
- Short think-piece
- Class participation

Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's

historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

Learning outcomes

- Identify and critique key ethical and interdisciplinary perspectives on the environment.
- Recognise how environmental law is affected by the Australian legal framework (including an awareness of relevant international law).