



# LAWS560

## Environmental Law

S1 External 2017

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Convenor

Andrew Burke

[andrew.burke@mq.edu.au](mailto:andrew.burke@mq.edu.au)

Contact via Email

W3A 514

Any time by prior appointment

Credit points

3

Prerequisites

(24cp in LAW or LAWS units) or (39cp at 100 level or above including ENV267)

Corequisites

ENV300 or ENVE362 or ENVG340 or LAW314 or LAW315 or LAWS398 or LAWS399 or LAW490 or LAWS540 or GEOP340

Co-badged status

LAW855

Unit description

The unit provides an introduction to environmental law in Australia. Environmental law has evolved into a large and rapidly developing field. 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 divides in our globalised world are also enduring issues. Environmental law can also be seen as a reaction to exploitative growth and ecologically destructive projects. Much of the early environmental law had this focus. The unit also highlights the need for 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:

- Demonstrate knowledge of key ethical and interdisciplinary perspectives on the environment, and be able to use them in critical analysis of environmental issues.
- Display a sound knowledge of the history of environmental law and regulation in

Australia, including the emergence of sustainable development as a key principle.

Be knowledgeable about the different styles of legal regulation and the regulatory tools available, and be able to analyse their strengths and weaknesses in different contexts.

Demonstrate an understanding of how environmental law is related to other laws in Australia and at the international level, and be able to distinguish law from policy.

Be familiar with the most important cases and statutes in Australian environmental law (including a critical grasp of their content and significance).

Have a sound understanding of the major challenges facing environmental law.

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

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Short introductory essay</u>	30%	No	Monday 20 March
<u>Class participation</u>	20%	No	Throughout
<u>Research paper</u>	50%	No	Thursday 8 June

### Short introductory essay

Due: **Monday 20 March**

Weighting: **30%**

A short essay on a specific aspect of environmental law. Topics and instructions will be posted on iLearn in Week 2 or earlier. It is not a research essay, but some reading and referencing will be required. Length: 1,200 words (excluding footnotes and bibliography). To be submitted through Turnitin in **Word format**. Deadline: 23:55 on March 20th.

On successful completion you will be able to:

- Demonstrate knowledge of key ethical and interdisciplinary perspectives on the environment, and be able to use them in critical analysis of environmental issues.
- Have a sound understanding of the major challenges facing environmental law.

### Class participation

Due: **Throughout**

Weighting: **20%**

Students are expected to discuss relevant materials in class and answer tutorial questions and problems. You are also expected to engage with other students and the tutor in an appropriate manner that involves analysis of the assigned material and informed responses to

questions posed in class. Students will not be awarded the class participation mark simply for attending the tutorial sessions.

On successful completion you will be able to:

- Display a sound knowledge of the history of environmental law and regulation in Australia, including the emergence of sustainable development as a key principle.
- Be knowledgeable about the different styles of legal regulation and the regulatory tools available, and be able to analyse their strengths and weaknesses in different contexts.
- Demonstrate an understanding of how environmental law is related to other laws in Australia and at the international level, and be able to distinguish law from policy.
- Have a sound understanding of the major challenges facing environmental law.

## Research paper

Due: **Thursday 8 June**

Weighting: **50%**

Essay topics and instructions will be posted early in the semester. You can also submit your own essay topic for the convenor's approval. This is to be a thought-provoking exercise to stimulate you to independently explore in depth a topic of genuine interest to you. By **Tuesday 4 April**, each student is required to **EMAIL** the convenor a one-page outline of his or her chosen research topic, method, and indicative sources for approval. Research paper length: 3,800 words (excluding footnotes and bibliography). To be submitted through Turnitin in **Word format**. Deadline: 23:55 on June 8th.

On successful completion you will be able to:

- Display a sound knowledge of the history of environmental law and regulation in Australia, including the emergence of sustainable development as a key principle.
- Be knowledgeable about the different styles of legal regulation and the regulatory tools available, and be able to analyse their strengths and weaknesses in different contexts.
- Demonstrate an understanding of how environmental law is related to other laws in Australia and at the international level, and be able to distinguish law from policy.
- Be familiar with the most important cases and statutes in Australian environmental law (including a critical grasp of their content and significance).
- Be able to make sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## Delivery and Resources

Readings for each week will be posted in advance on iLearn.

Recommended textbooks: Gerry Bates, *Environmental Law in Australia*, 9th edition, 2016; and

D. E. Fisher, *Australian Environmental Law*, 3rd edition, 2014.

Weekly tutorial questions and other information about the unit will also be communicated through iLearn.

## Unit Schedule

**Week 1:** Introduction to unit. History and context of environmental law.

There will be **no tutorial** this week.

**Week 2:** Can legislation save the world?

**Tutorials start this week.** Tutorial questions will be posted on iLearn a few days in advance.

**Week 3:** International environmental law.

**Week 4:** Environmentally sustainable development.

**Week 5:** Commonwealth environmental law.

**Week 6:** Biodiversity protection and the law on biodiversity offsetting.

**Week 7:** Pollution and waste.

**\* Semester break. \***

**Week 8:** Mining law: Coal Seam Gas case study.

**Week 9:** Climate change law.

**Week 10:** Indigenous people and environmental law.

**Week 11:** Environmental crime.

**Week 12:** Limits of environmental law.

**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 Unit.

## 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\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html)

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy (in effect until Dec 4th, 2017): [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy->

[planning-and-governance/university-policies-and-procedures/policies/special-consideration](#)

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/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](#).

### Assessment policy

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made via [ask.mq.edu.au](#) and must be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.

Word limits will be strictly applied and work above the word limit will not be marked.

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

### Moderation

Detailed marking criteria will be made available. Papers receiving a fail grade will be double-marked.

## 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://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### 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:

#### Learning outcome

- Have a sound understanding of the major challenges facing environmental law.

#### Assessment tasks

- Short introductory essay
- Class participation
- Research paper

### 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 outcomes

- Be knowledgeable about the different styles of legal regulation and the regulatory tools available, and be able to analyse their strengths and weaknesses in different contexts.

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

## **Assessment tasks**

- Class participation
- Research paper

## **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**

- Display a sound knowledge of the history of environmental law and regulation in Australia, including the emergence of sustainable development as a key principle.

## **Assessment task**

- Class participation

## **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 outcomes**

- Display a sound knowledge of the history of environmental law and regulation in Australia, including the emergence of sustainable development as a key principle.
- Be knowledgeable about the different styles of legal regulation and the regulatory tools available, and be able to analyse their strengths and weaknesses in different contexts.
- Be familiar with the most important cases and statutes in Australian environmental law (including a critical grasp of their content and significance).
- Be able to make sound recommendations for law reform, further research, or the creative



application of existing law, to address environmental issues.

## **Assessment tasks**

- Class participation
- Research paper

## **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**

- Demonstrate knowledge of key ethical and interdisciplinary perspectives on the environment, and be able to use them in critical analysis of environmental issues.
- Demonstrate an understanding of how environmental law is related to other laws in Australia and at the international level, and be able to distinguish law from policy.
- Have a sound understanding of the major challenges facing environmental law.
- Be able to make sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## **Assessment tasks**

- Short introductory essay
- Class participation
- Research paper

## **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:

## **Learning outcome**

- Demonstrate an understanding of how environmental law is related to other laws in Australia and at the international level, and be able to distinguish law from policy.

## Assessment tasks

- Class participation
- Research paper

## 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:

## Learning outcomes

- Be familiar with the most important cases and statutes in Australian environmental law (including a critical grasp of their content and significance).
- Be able to make sound recommendations for law reform, further research, or the creative application of existing law, to address environmental issues.

## Assessment task

- Research paper

## 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 outcome

- Demonstrate knowledge of key ethical and interdisciplinary perspectives on the environment, and be able to use them in critical analysis of environmental issues.

## Assessment task

- Short introductory essay

## Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and

country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

### **Learning outcome**

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