



LAWS543

Climate Change Law

S3 Block 2017

Dept of Law

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General Information

Unit convenor and teaching staff

Judith Preston

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Brian Preston

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Credit points

3

Prerequisites

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

Corequisites

Co-badged status

Unit description

Almost daily we encounter a new development or opinion concerning climate change, but what do we know about the legal framework that has formed around the subject? This unit is an introduction to the subject of climate change with a particular focus on its legal aspects. It is designed to help students understand the fundamentals of climate change law at the international and domestic levels.

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:

1. Familiarisation with the science of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
2. Understanding of Australian laws and international treaties aimed at reducing greenhouse gas emissions by states or helping communities adapt to a changing climate.
3. Ability to explain and critically analyse the rationale for and legal regulation of carbon market mechanisms
4. Ability to make legal submissions on aspects of emission trading, and in particular on

the Clean Development Mechanism and REDD+

5. Understanding of the evolution of climate law in Australia, with an ability to express analytical and substantiated views about its current and future uses.

6. Critically comparing legal and policy developments in Australia with those in other countries and regions particularly the Asia Pacific region

7. Supported views on the potential options for formulating long-term legal responses to climate change at the international level.

8. Display engagement with justice/ethical considerations particular to the field of climate change.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>InforMEA Climate Law courses</u>	10%	No	15/12/18
<u>Reflection on climate law</u>	30%	No	22/12/2017
<u>Moot problem</u>	10%	No	17/12/17
<u>Research essay</u>	50%	No	17/01/18

InforMEA Climate Law courses

Due: **15/12/18**

Weighting: **10%**

Students are to register with InforMEA on <https://e-learning.informea.org/course/index.php?categoryid=7> (free) and complete the two introductory courses - one on the United Nations Framework on Climate Change and the Kyoto Protocol and the other on the Paris Agreement.

Students must email copies of the Certificate of Completion for both courses to the Convenor by the Friday 15 December 2017 .

On successful completion you will be able to:

- 1. Familiarisation with the science of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- 2. Understanding of Australian laws and international treaties aimed at reducing greenhouse gas emissions by states or helping communities adapt to a changing climate.

Reflection on climate law

Due: **22/12/2017**

Weighting: **30%**

Students are to select a media article in the last six months about a current issue concerning the legal regulation of climate in Australia with reference to the unit learning outcomes. The reflective paper will be a maximum of 1,500 words excluding footnotes and the bibliography as well as compliant with the Australian Guide to Legal Citation.

On successful completion you will be able to:

- 2. Understanding of Australian laws and international treaties aimed at reducing greenhouse gas emissions by states or helping communities adapt to a changing climate.
- 3. Ability to explain and critically analyse the rationale for and legal regulation of carbon market mechanisms
- 4. Ability to make legal submissions on aspects of emission trading, and in particular on the Clean Development Mechanism and REDD+
- 5. Understanding of the evolution of climate law in Australia, with an ability to express analytical and substantiated views about its current and future uses.
- 6. Critically comparing legal and policy developments in Australia with those in other countries and regions particularly the Asia Pacific region
- 7. Supported views on the potential options for formulating long-term legal responses to climate change at the international level.

Moot problem

Due: **17/12/17**

Weighting: **10%**

Students are divided into groups representing a party to a climate-related dispute. The facts and marking rubric for this task will be uploaded onto iLearn. Each group prepares a written submission which is presented orally to the Moot Court. Students are primarily assessed on their skills with respect to their role in participating in the group task for preparing and delivering the submissions to the Court.

The written submission are to be a maximum of 1,000 words inclusive of references compliant with AGLC. Oral submissions should be no longer than 10 minutes.

On successful completion you will be able to:

- 2. Understanding of Australian laws and international treaties aimed at reducing

greenhouse gas emissions by states or helping communities adapt to a changing climate.

- 8.Display engagement with justice/ethical considerations particular to the field of climate change.

Research essay

Due: **17/01/18**

Weighting: **50%**

Students are to prepare a written essay in response to the following question:-

"Unjust laws exist. Shall we be content to obey them or shall we endeavour to amend them and obey them until we have succeeded or shall we transgress them at once?(Henry David Thoreau).

Evaluate this quotation in respect of the climate law framework in Australia.

The essay is to be submitted through Turnitin with a maximum of 4,000 words inclusive of references compliant with the AGLC.

On successful completion you will be able to:

- 2.Understanding of Australian laws and international treaties aimed at reducing greenhouse gas emissions by states or helping communities adapt to a changing climate.
- 3.Ability to explain and critically analyse the rationale for and legal regulation of carbon market mechanisms
- 4.Ability to make legal submissions on aspects of emission trading, and in particular on the Clean Development Mechanism and REDD+
- 5.Understanding of the evolution of climate law in Australia, with an ability to express analytical and substantiated views about its current and future uses.
- 6.Critically comparing legal and policy developments in Australia with those in other countries and regions particularly the Asia Pacific region
- 7.Supported views on the potential options for formulating long-term legal responses to climate change at the international level.
- 8.Display engagement with justice/ethical considerations particular to the field of climate change.

Delivery and Resources

Intensive Block from Friday December 15 to Monday December 18 2017 (inclusive))

All teaching materials including Readings will be available on iLearn.

Recommended textbook: A. Zahar, J. Peel, and L. Godden, *Australian Climate Law in Global Context*, Cambridge University Press, 2012. Several copies are held in the Library and are available online through the Library.

Unit Schedule

Day 1 (Friday 15 December 2017)

Morning sessions (9.00-1.00pm)

Introduction unit outline and sources. (All readings will be on iLearn.) (**Judith Preston**)

The science of climate change. (**Professor Lesley Hughes**-video)

Lunch (1.00 pm-2pm)

Afternoon sessions (2.00- 4.00pm)

Overview of the international legal framework to regulate climate change (**Justice Brian Preston/Judith Preston**)

International mechanisms engaging developing countries overview- Clean development mechanisms and Forest protection .

REDD+ and climate change (Lisa Ogle)

Climate change, forests and Indonesia (Windu Kisworo HDR student at MQU)

Day 2 (Saturday 16 December 2017)

Morning sessions (9.00am-1.00pm)

Legal elements of the international climate change regime continued-the UNFCCC ,Kyoto Protocol and the Paris Agreement. (**Paul Govind**)

Lunch (1.00-2.00pm)

Afternoon sessions (2.00-5.00pm)

Australian climate change law.-at Federal level and with a focus on NSW (**Justice Brian Preston/Judith Preston**)

Climate Change Act 2017 (Victoria)

International climate law developments- model statutes,draft Climate Compensation Act of Vanuatu, Oslo Principles on Global Climate Obligations, Principles on Climate Obligations of Enterprises (**Justice Brian Preston**)

Day 3 (Sunday 17 December 2017)

Morning sessions (9.00am -1.00pm).

Climate litigation (**Justice Brian Preston**)

Adaptation to climate change and the agriculture sector (**Professor Paul Martin**)

Lunch (1.00pm-2.00pm)

Afternoon Sessions (2.00pm -5.00pm)

Mock Trial- Nature And Others versus Commonwealth of Australia and the State of Queensland (**Laws 543 students**)

Judgment and session feedback

Day 4 (Monday 18 December 2017)

Morning sessions (9.00 am-1.00pm)

International climate finance as a key legal obligation. (**Paul Govind**)

Climate change conflict and World Heritage (**Acting Justice Simon Molesworth**)

Lunch (1.00pm-2.00pm)

Afternoon sessions (2.00pm-4.00pm)

Law 851 Student Presentations

4.00pm-5.00pm-(Judith Preston)

Future Shocks and Solutions

Natural disasters, risk and management- overview and legal responses

Transition to a low-carbon life: Can it happen fast enough?

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_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

Disruption to Studies Policy (in effect until Dec 4th, 2017): 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/

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.

Late Submission Penalties

Any assessment that is received after the due date and time without an approved Disruption to Studies application will attract a 2% per day late penalty (2 marks per 100 for the individual assessment item). No assessments will be accepted beyond 7 days after the due date and time.

This policy does not apply to quizzes or timed assessments (where the assessment is due less than one week after the question is released). No late assessments are accepted in these instances.

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://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 outcomes

- 3.Ability to explain and critically analyse the rationale for and legal regulation of carbon market mechanisms
- 7.Supported views on the potential options for formulating long-term legal responses to climate change at the international level.

Assessment tasks

- Reflection on climate law
- Moot problem
- Research essay

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

- 6.Critically comparing legal and policy developments in Australia with those in other countries and regions particularly the Asia Pacific region
- 8.Display engagement with justice/ethical considerations particular to the field of climate change.

Assessment task

- Moot problem

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 outcomes

- 5. Understanding of the evolution of climate law in Australia, with an ability to express analytical and substantiated views about its current and future uses.
- 6. Critically comparing legal and policy developments in Australia with those in other countries and regions particularly the Asia Pacific region
- 8. Display engagement with justice/ethical considerations particular to the field of climate change.

Assessment task

- Moot problem

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

- 1. Familiarisation with the science of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- 6. Critically comparing legal and policy developments in Australia with those in other countries and regions particularly the Asia Pacific region

Assessment tasks

- InforMEA Climate Law courses
- Research essay

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

- 2. Understanding of Australian laws and international treaties aimed at reducing greenhouse gas emissions by states or helping communities adapt to a changing climate.
- 3. Ability to explain and critically analyse the rationale for and legal regulation of carbon market mechanisms
- 4. Ability to make legal submissions on aspects of emission trading, and in particular on the Clean Development Mechanism and REDD+
- 5. Understanding of the evolution of climate law in Australia, with an ability to express analytical and substantiated views about its current and future uses.
- 7. Supported views on the potential options for formulating long-term legal responses to climate change at the international level.

Assessment tasks

- Reflection on climate law
- Research essay

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

- 2. Understanding of Australian laws and international treaties aimed at reducing greenhouse gas emissions by states or helping communities adapt to a changing climate.

Assessment tasks

- InforMEA Climate Law courses
- Moot problem
- Research essay

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

- 3.Ability to explain and critically analyse the rationale for and legal regulation of carbon market mechanisms
- 8.Display engagement with justice/ethical considerations particular to the field of climate change.

Assessment tasks

- Reflection on climate law
- Moot problem
- Research essay

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

- 1.Familiarisation with the science of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- 5.Understanding of the evolution of climate law in Australia, with an ability to express analytical and substantiated views about its current and future uses.
- 6.Critically comparing legal and policy developments in Australia with those in other

countries and regions particularly the Asia Pacific region

- 7. Supported views on the potential options for formulating long-term legal responses to climate change at the international level.
- 8. Display engagement with justice/ethical considerations particular to the field of climate change.

Assessment task

- Reflection on climate law

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 outcomes

- 4. Ability to make legal submissions on aspects of emission trading, and in particular on the Clean Development Mechanism and REDD+
- 7. Supported views on the potential options for formulating long-term legal responses to climate change at the international level.
- 8. Display engagement with justice/ethical considerations particular to the field of climate change.

Assessment task

- Reflection on climate law

Changes since First Published

Date	Description
18/10/2017	Policies and Procedures Late Submission Penalties