



# LAW 851

## Climate Change Law

S3 External 2018

*Dept of Law*

### Contents

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<a href="#"><u>General Information</u></a>	2
<a href="#"><u>Learning Outcomes</u></a>	3
<a href="#"><u>General Assessment Information</u></a>	4
<a href="#"><u>Assessment Tasks</u></a>	4
<a href="#"><u>Delivery and Resources</u></a>	7
<a href="#"><u>Unit Schedule</u></a>	8
<a href="#"><u>Policies and Procedures</u></a>	10
<a href="#"><u>Graduate Capabilities</u></a>	11

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## General Information

Unit convenor and teaching staff

Convener

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By appointment

Lecturer

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By appointment

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By appointment

Judith Preston

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Credit points

4

#### Prerequisites

Admission to MEnvLaw or MIntEnvLaw or MIntTrdeComLaw or MIntRelMIntTrdeComLaw or MPPP or GradDipPPP or MPlan or LLM or MIntLawGovPP or MMarScMgt or MPPPMIntRel or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 32cp in LAW or LAWS units at 800 level)

#### 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:

Demonstrate advanced understanding of the fundamental concepts on the physical aspects of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.

Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.

Understand and evaluate the legal elements of carbon pricing, carbon trading, and other emission-reduction and offset models as financial mechanisms for climate mitigation.

Demonstrate an advanced understanding of the development of climate law and climate litigation law in Australia and overseas, with an ability to express analytical and substantiated views about the effectiveness of the legal framework and use of litigation as a tool to assist with improved climate governance.

Critically compare legal and policy developments in Australia with those in other countries and regions particularly the Asia/ South Pacific region

Express developed and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.

Display confident engagement with justice/ethical considerations particular to the field of climate change and climate change law such as in relation to protection of natural and cultural heritage and human rights.

Demonstrate an ability to integrate information and perspectives from other disciplines, as well as to understand how to approach climate law problem-solving from a multi-disciplinary perspective

## General Assessment Information

Students are encouraged to carefully look through the Unit Guide well in advance of the course to ensure you are informed about the assessment tasks particularly that one of the assessment tasks is to completed within the on campus session.

Students are also advised to complete the online InforMEA/Unitar e-courses assessment prior to the start of the OCS for preparation.

### Late Assessment Penalty

*Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.*

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#"><u>InforMEA/ Unitar Climate Law</u></a>	20%	No	14 December 2018, 5pm
<a href="#"><u>Reflection of Climate Issues</u></a>	20%	No	19 December 2018, 5pm
<a href="#"><u>Class Presentation</u></a>	10%	No	10 December 2018
<a href="#"><u>Research Paper</u></a>	50%	No	13 January 2019, 5pm

### InforMEA/ Unitar Climate Law

Due: **14 December 2018, 5pm**

Weighting: **20%**

Students are to complete either the online InforMEA courses on Climate Change International Legal Regime found at <https://elearning.informe.org/course/index.php?categoryid=7> or the Unitar Introductory e-course on Climate Change found at <https://unccelearn.org/>.

Students are to upload the Certificate of Completion by 5pm on 14 December 2018 onto

iLearn. Students are strongly recommended to complete the course prior to starting the on campus session to assist with preparation for the course and to mitigate any technical problems that may be encountered in completing the online course.

On successful completion you will be able to:

- Demonstrate advanced understanding of the fundamental concepts on the physical aspects of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.
- Understand and evaluate the legal elements of carbon pricing, carbon trading, and other emission-reduction and offset models as financial mechanisms for climate mitigation.
- Critically compare legal and policy developments in Australia with those in other countries and regions particularly the Asia/ South Pacific region
- Display confident engagement with justice/ethical considerations particular to the field of climate change and climate change law such as in relation to protection of natural and cultural heritage and human rights.

## Reflection of Climate Issues

Due: **19 December 2018, 5pm**

Weighting: **20%**

Students are to select an article in the media that concerns issues relating to the effectiveness of legal framework regulating climate change preferably in Australia or the Asia /Pacific region.

The article has to be sourced from a reputable journal or newspaper and have been written within the last nine months, This a reflective piece and the focus is to write about your reaction to the issues discussed in the article and how your viewpoint may have changed and the reasons for the change.

The paper is a **maximum of 1,000 words** exclusive of references and a bibliography. References must be **compliant with the Australian Guide to Legal Citation**.

On successful completion you will be able to:

- Demonstrate advanced understanding of the fundamental concepts on the physical aspects of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for

multiple stakeholders in a changing climate.

- Demonstrate an advanced understanding of the development of climate law and climate litigation law in Australia and overseas, with an ability to express analytical and substantiated views about the effectiveness of the legal framework and use of litigation as a tool to assist with improved climate governance.
- Critically compare legal and policy developments in Australia with those in other countries and regions particularly the Asia/ South Pacific region
- Express developed and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
- Display confident engagement with justice/ethical considerations particular to the field of climate change and climate change law such as in relation to protection of natural and cultural heritage and human rights.
- Demonstrate an ability to integrate information and perspectives from other disciplines, as well as to understand how to approach climate law problem-solving from a multi-disciplinary perspective

## Class Presentation

Due: **10 December 2018**

Weighting: **10%**

Students are to select an article in the media that concerns issues relating to the effectiveness of the legal framework regulating climate change preferably in Australia or the Asia /Pacific region and prepare an oral presentation to a maximum of five(5) minutes.

The presentation will be an outline of the issue(s) to be discussed in the reflective paper and your reaction to the issue(s).

**Students should submit a hard copy of their concise summary (max 500 words) of their presentation to the Convenor at the time of the delivery.**

Presentations should be supported by online tools such as Powerpoint, Google Docs, OpenOffice and Zoho Show.

On successful completion you will be able to:

- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.
- Critically compare legal and policy developments in Australia with those in other countries and regions particularly the Asia/ South Pacific region

## Research Paper

Due: **13 January 2019, 5pm**

Weighting: **50%**

Students are to write a research paper on a topic of relevance to the course objectives. Students may propose their topic in an abstract to the Convener for approval by 18 December 2018.

Suggestions may be given on topics to be uploaded on iLearn. This is intended to be a thought-provoking exercise to stimulate students to explore in depth a topic of genuine interest to them. **Length: 4,500 words (exclusive of references and bibliography).**

To be submitted through Turnitin as a Word document (no PDFs accepted).

All references are to be **compliant** with the **Australian Guide to Legal Citation**.

On successful completion you will be able to:

- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.
- Demonstrate an advanced understanding of the development of climate law and climate litigation law in Australia and overseas, with an ability to express analytical and substantiated views about the effectiveness of the legal framework and use of litigation as a tool to assist with improved climate governance.
- Critically compare legal and policy developments in Australia with those in other countries and regions particularly the Asia/ South Pacific region
- Express developed and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
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- Demonstrate an ability to integrate information and perspectives from other disciplines, as well as to understand how to approach climate law problem-solving from a multi-disciplinary perspective

## Delivery and Resources

Intensive Block from Friday December 7 to Monday December 10, 2018 (inclusive))

All teaching materials including Readings will be available on iLearn.

**Recommended textbook:**

[The Oxford Handbook of International Climate Change Law](#)

Edited by Kevin R. Gray, Richard Tarasofsky, and Cinnamon Carlarne (2016). This is available online at Macquarie University Library.

## Unit Schedule

### Day 1 (Friday 7 December 2018)

#### Morning sessions (9.00-1.00pm)

##### 9.00am-10.45am

Introduction to the unit and assessments and overview of knowledges contributing to the understanding of climate science, law and policy. **(Judith Preston)**

##### 10.45 am -11.15am- Morning break

##### 11.15am -12.15 pm

Climate change and adaptation **(Dr Paul Adams)**

##### 12.15 am-1.00pm

International Declaration on Human Rights and Climate Change **(Dr Kirsty Davies)**

#### Lunch (1.00 pm-1.45pm)

#### Afternoon sessions (2.30- 6.00pm)

##### 2.00pm -3.00pm

The potential effects of humans and ecosystems existing in a climate warming by 3 degrees higher on average and the ways the legal framework may be able to support mitigation of that concerning outcome. **(The Honourable Justice Michael Wilson from the Supreme Court of Hawaii by Skype)**

##### 3.00pm- 3.15pm-Afternoon break

##### 3.30pm-4.30pm

International mechanisms engaging the Global South- REDD+ **(Lisa Ogle)**

##### 4.30pm-5.30pm

World Heritage and Climate Change **(Judith Preston)**

### Day 2 (Saturday 8 December 2018)

#### Morning sessions (9.00am-1.00pm)

##### 9.00am-11.00am

Legal elements of the international climate change framework **(The Honourable Justice Dr**



**Brian Preston, Chief Judge of the Land and Environment Court)**

**11.00am-11.30am** -Morning Break

**11.30am-1.00pm**

Legal elements of the international climate change framework continued.

**Lunch (1.00-2.00pm)**

**Afternoon sessions (2.00-5.00pm)**

**2.00pm-3.30pm**

Australian climate change law framework at national and state level. (**The Honourable Justice Dr Brian Preston**)

**3.30pm-3.45pm**- Afternoon Break

**3.45pm-5.00pm**

Australian climate law framework continued.

**Day 3 (Sunday 9 December 2018)**

**Morning sessions (9.00am -1.00pm).**

**9.00am-11.00 am**

Climate litigation ( **The Honourable Justice Dr Brian Preston**)

**11.30- 12 noon** Morning break

**12 noon- 1pm**

Climate Change and Planning (**Dr Les Stein**)

**Lunch ( 1pm-2.00pm)**

**Afternoon Sessions (2.00pm-4.00pm)**

**2.00pm- 3.00pm**

Renewable Energy and the Australian Renewable Energy Authority(ARENA) (**Charlotte Hanson**)

**3.00pm-3.15pm**-Afternoon Break

**3.15pm-4.30pm**

Climate Financing overview (**Registrar of the Land and Environment Court of NSW, Sarah Froh**)

**Day 4 (Monday 10 December 2018)**

**Morning sessions (9.00am-1.00pm)**

### 9.00 am-11.00am

Human Rights and Climate Change (**Professor Donna Craig and Judith Preston**)

11.00am-11.30am Morning break

### 11.30am-1.00pm

Oral presentation by Law 851 students

### Afternoon sessions

#### 2.00-4.00pm-

Oral presentations continued.

#### 4.00-5.00pm-

Course Concluding Session

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway \(https://students.mq.edu.au/support/study/student-policy-gateway\)](https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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](#).

## 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

### 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

- Display confident engagement with justice/ethical considerations particular to the field of climate change and climate change law such as in relation to protection of natural and cultural heritage and human rights.
- Demonstrate an ability to integrate information and perspectives from other disciplines, as well as to understand how to approach climate law problem-solving from a multi-disciplinary perspective

## Assessment tasks

- InforMEA/ Unitar Climate Law
- Reflection of Climate Issues
- Research Paper

## 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

- Demonstrate advanced understanding of the fundamental concepts on the physical aspects of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- Understand and evaluate the legal elements of carbon pricing, carbon trading, and other emission-reduction and offset models as financial mechanisms for climate mitigation.
- Demonstrate an advanced understanding of the development of climate law and climate litigation law in Australia and overseas, with an ability to express analytical and substantiated views about the effectiveness of the legal framework and use of litigation as a tool to assist with improved climate governance.
- Critically compare legal and policy developments in Australia with those in other countries and regions particularly the Asia/ South Pacific region

## Assessment tasks

- InforMEA/ Unitar Climate Law
- Reflection of Climate Issues
- Class Presentation
- 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

- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.
- Understand and evaluate the legal elements of carbon pricing, carbon trading, and other emission-reduction and offset models as financial mechanisms for climate mitigation.
- Demonstrate an advanced understanding of the development of climate law and climate litigation law in Australia and overseas, with an ability to express analytical and substantiated views about the effectiveness of the legal framework and use of litigation as a tool to assist with improved climate governance.
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- Demonstrate an ability to integrate information and perspectives from other disciplines, as well as to understand how to approach climate law problem-solving from a multi-disciplinary perspective

### Assessment tasks

- InforMEA/ Unitar Climate Law
- Reflection of Climate Issues
- Class Presentation
- 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**

- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.
- Understand and evaluate the legal elements of carbon pricing, carbon trading, and other emission-reduction and offset models as financial mechanisms for climate mitigation.
- Express developed and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
- Demonstrate an ability to integrate information and perspectives from other disciplines, as well as to understand how to approach climate law problem-solving from a multi-disciplinary perspective

## **Assessment tasks**

- InforMEA/ Unitar Climate Law
- Reflection of Climate Issues
- Class Presentation
- 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 outcome**

- Display confident engagement with justice/ethical considerations particular to the field of climate change and climate change law such as in relation to protection of natural and cultural heritage and human rights.

## **Assessment tasks**

- InforMEA/ Unitar Climate Law
- Reflection of Climate Issues
- 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**

- Demonstrate advanced understanding of the fundamental concepts on the physical aspects of climate change, including its causes and impacts, as a foundation from which to engage with other aspects of the field.
- Demonstrate a detailed understanding of the international and domestic climate law framework aimed at mitigation of greenhouse gas emissions or adaptation measures for multiple stakeholders in a changing climate.
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## **Assessment tasks**

- InforMEA/ Unitar Climate Law
- Reflection of Climate Issues
- Class Presentation
- Research Paper