



# LAWS592

## Issues in Heritage Conservation

S2 Day 2018

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Judith Preston

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Credit points

3

Prerequisites

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

Corequisites

Co-badged status

Law 859 Heritage Law and Policy

Unit description

This unit examines the concept of heritage and the various mechanisms for conservation of natural and cultural, intangible and tangible, elements of heritage. Specific areas include underwater cultural heritage, movable heritage, Indigenous intangible heritage and cultural expressions. Legal regimes for heritage conservation at international, national, state and local levels are examined and case studies are used to illustrate the policy tensions inherent in environmental decision making in this area. International initiatives to address issues in heritage conservation are examined and the challenges to effective implementation in developed and developing countries assessed.

## 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. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immoveable) and Indigenous heritage.
3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.

4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## General Assessment Information

### Word Limit for written Assessments

Any work over the word limit will not be marked.

### Moderation

Detailed marking rubrics will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all Fail papers are double marked

### Penalties for Lateness

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
<u><a href="#">Class Participation</a></u>	15%	No	Ongoing
<u><a href="#">Research Essay</a></u>	50%	No	5pm 9 November 2018
<u><a href="#">Group Presentation</a></u>	35%	No	Week 7(13/9/18)

### Class Participation

Due: **Ongoing**

Weighting: **15%**

Class participation will be assessed on the basis of involvement in the weekly classes. Students should ensure they have completed the required reading for each tutorial, and be prepared to discuss this material. Guiding questions are set out in the *Course Readings* document on iLearn and students should be prepared to participate in further discussion and analysis beyond these. Students will not be awarded participation marks just for attending class. The following non-exhaustive list of criteria will be used to assess your class participation:

- The level of preparedness for each tutorial assessed by responses to questions, answers and opinions offered throughout class;
- The level of analysis you display in class;
- Your ability to answer questions put directly to you in class;
- Your ability to make an educated and legally feasible arguments in class;
- The way in which you engage in a constructive way with other students and the Unit Convenor in class.
- The standard of prepared responses to tutorial questions or ungraded quizzes
- 
- **External students** will be assessed on their class participation with reference to the above criteria during the OCS.

On successful completion you will be able to:

- 1. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immoveable) and Indigenous heritage.
- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.
- 4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## Research Essay

Due: **5pm 9 November 2018**

Weighting: **50%**

The research essay requires students to select a topic from the list of essay topics provided by the Unit Convenor on iLearn. The essay should be a maximum of 4,000 words inclusive of citations and bibliography, fully referenced in compliance with the most recent edition of the

*Australian Guide to Legal Citation*. This research essay will focus on independent research and writing.

On successful completion you will be able to:

- 1. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immoveable) and Indigenous heritage.
- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.
- 4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## Group Presentation

Due: **Week 7(13/9/18)**

Weighting: **35%**

**Internal students will be divided into groups from 2 to 4 students by Week 4.** The group will select an important judicial decision relating to heritage law from Australia and compare it to another decision on a similar issue from an external jurisdiction. **The selection of cases must be made by Week 5 and approved by the tutor and/or Convener.** **The material in the oral presentation must include at least two discussion questions.** The presentation will be delivered orally and must be supported by a powerpoint presentation. **The presentation must be a maximum of 5 minutes per pair of students.** Groups exceeding the time limit can be penalized by up to 10% of the mark. The oral presentation will be worth 15%.

Students will be assessed on the:

- Clarity of the facts, ratio and rationale of the cases.
- Reason for the importance in heritage protection specifically and environmental jurisprudence generally.
- Ability of the group to propose and lead appropriate class discussion questions.
- Ability to undertake co-operative teamwork

This assessment requires **each group member** to submit an **individually prepared summary paper** of up to 1,000 words arising out of the cases analysed for the powerpoint

presentation, any other relevant reference material by 5pm Thursday 13 September 2018. The summary paper is worth 20%.

**External students will undertake the task individually and must submit their selection of cases by email to the Convener by 30 August 2018. The summary of the presentation must be submitted to iLearn by 5pm Thursday 13 September 2018. The summary paper is worth 20%. Oral presentations will be done within the OCS and are worth 15%.**

On successful completion you will be able to:

- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable) and Indigenous heritage.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## Delivery and Resources

You will find all resources and required reading list in the online unit available at [ilearn.mq.edu.au](http://ilearn.mq.edu.au).

## Unit Schedule

This Unit is being delivered by recorded lectures in **25a Wally's Walk Room 207 and tutorials** which is compulsory for **internal students**.

**External students** must attend an intensive on campus session on Saturday 15-Sunday 16 September in **11 Wally's Walk Tutorial Room 180**.

Heritage Law-Weekly Lectures

The schedule aims to include guest lectures by specialists in international and environmental law from academia, the Land and Environment Court, the Aboriginal community and the EDO NSW and may be subject to adjustment to accommodate the availability of the experts.

Week 1

Introduction

The context and concepts in heritage both natural and cultural, Indigenous and non-Indigenous.

Week 2

Issues in Heritage

Issues include over-development, pressures of population, colonial expansion, armed conflict, illegal wildlife trade, climate change and pollution.

Week 3-International Legal framework

Overview of international conventions related to natural and cultural heritage.

Week 4 and 5

World Heritage

The World Heritage Convention and its implementation in Australia-protection and loss

Impacts of climate change on world heritage sites and how the legal framework responds

Week 6- and 7

Heritage protection at Federal level

Overview of Commonwealth laws related to natural and heritage protection at Federal level including selected case studies

Week 8

State heritage

Overview of the State heritage framework

Week 9

Heritage, Planning and Development

Week 10 and 11

Aboriginal Heritage

Issues related to protection of intangible/tangible cultural heritage and use of non-environmental laws such as intellectual property and contract to ensure that free, prior and informed consent for the use of Aboriginal knowledge and its manifestations by custodians occurs.

Aboriginal Cultural Heritage laws-reform proposals

Week 12

Public Interest Litigation and Heritage

Week 13

Local government and heritage

## **Learning and Teaching Activities**

### **OCS Outline**

The outline will be uploaded to iLearn

## **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-centr) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-centr>)

al). 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](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<http://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](http://ask.mq.edu.au).

In the absence of a successful application for special consideration due to a disruption of 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 electronically via [Ask.mq.edu.au](http://Ask.mq.edu.au) and should 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.

## 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

- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable) and Indigenous heritage.

#### Assessment task

- Class Participation

### 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

- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## Assessment task

- Group Presentation

## 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

- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.
- 4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.

## Assessment task

- Group Presentation

## 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. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable) and Indigenous heritage.
- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.
- 4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## **Assessment tasks**

- Class Participation
- 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**

- 1. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable) and Indigenous heritage.
- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.

- 4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## **Assessment tasks**

- Class Participation
- Research Essay
- Group Presentation

## **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 outcomes**

- 4. Demonstrate an ability to identify and recommend potential law reforms to address issues in international, national, and local heritage conservation.
- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## **Assessment tasks**

- Class Participation
- 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 outcome

- 5. Demonstrate an ability to assess the effectiveness of heritage conservation under the Australian legal system at Federal, State and local government levels.

## Assessment tasks

- Class Participation
- Research Essay
- Group Presentation

## 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. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable) and Indigenous heritage.
- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.

## Assessment tasks

- Class Participation
- Group Presentation

## 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**

- 1. Demonstrate an understanding of the philosophical and contextual frameworks underpinning definitions of heritage.
- 2. Display a sound knowledge of the scope of natural and cultural heritage, including intangible, tangible (moveable and immovable) and Indigenous heritage.
- 3. Develop an appreciation of the international law framework for heritage conservation and the challenges involved in effective implementation of international heritage conventions at domestic level.
- 6. Demonstrate an enquiring, critical and creative approach to established heritage law and policy.

## **Assessment tasks**

- Class Participation
- Group Presentation

## **Changes from Previous Offering**

This unit is primarily internally delivered.