LAW 858
Pollution, Law and Environmental Management
S2 External 2013

Macquarie Law School

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## General Information

<table>
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<tr>
<th>Unit convenor and teaching staff</th>
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<tbody>
<tr>
<td>Unit Convenor</td>
</tr>
<tr>
<td>Zada Lipman</td>
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### Credit points

4

### Prerequisites

Admission to MEnvLaw or PGDipEnvLaw or PCertEnvLaw or MEnvMgt or PCertEnvMgt or LLM in Environmental Law or 42cp in LAW units at 400 or 500 level

### Corequisites

### Co-badged status

### Unit description

The unit evaluates the policy and legislative approaches to pollution control. It provides an introduction and background to pollution law and policy with a focus on the evolution of contemporary regulation and management. Consideration will be given to the role of ecologically sustainable development in pollution control and the application of ESD principles by the New South Wales Land and Environment Court. Particular issues explored include: common law remedies; criminal liability; corporate and directors’ liability; due diligence; economic instruments; waste management and contaminated land. Comparative approaches from other jurisdictions will be used to evaluate the efficacy of current Australian and New South Wales policy and management.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at https://students.mq.edu.au/important-dates

## Learning Outcomes

1. Demonstrate a thorough understanding of the basic principles and policies underlying pollution law, and how they may be used to achieve environmental goals.
2. Understand the historical, philosophical and contextual background of pollution law as well as the current system of pollution law in NSW.
3. Possess the conceptual frameworks for analysing the adequacy of our legal system in
this field.
4. Examine the evolution of pollution law and make some assessment of how it can be expected to develop in the future having regard to the objectives of sustainable development.
5. Construct and evaluate arguments about the effectiveness of pollution law having regard to the challenges of enforcement and compliance.
6. Make recommendations for law reform and/or further research needed to address cross-cutting issues.
7. Critically analyse cross-cutting and emerging interdisciplinary issues in pollution law such as contaminated land issues, product stewardship, corporate social responsibility and market mechanisms.
8. Analyse hypothetical legal problem situations and formulate and present appropriate oral and written arguments in response.

Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Due</th>
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<tbody>
<tr>
<td>Theoretical Assignment</td>
<td>35%</td>
<td>Wednesday 16 October</td>
</tr>
<tr>
<td>Participation</td>
<td>15%</td>
<td>19-21 September</td>
</tr>
<tr>
<td>Research Assignment</td>
<td>50%</td>
<td>Monday 18 November</td>
</tr>
</tbody>
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Theoretical Assignment

Due: **Wednesday 16 October**
Weighting: **35%**

Theoretical Assignment

This Assessment Task relates to the following Learning Outcomes:

- Demonstrate a thorough understanding of the basic principles and policies underlying pollution law, and how they may be used to achieve environmental goals.
- Understand the historical, philosophical and contextual background of pollution law as well as the current system of pollution law in NSW.
- Possess the conceptual frameworks for analysing the adequacy of our legal system in this field.
- Analyse hypothetical legal problem situations and formulate and present appropriate oral and written arguments in response.
Participation
Due: 19-21 September
Weighting: 15%
Class participation and presentation

This Assessment Task relates to the following Learning Outcomes:
- Demonstrate a thorough understanding of the basic principles and policies underlying pollution law, and how they may be used to achieve environmental goals.
- Understand the historical, philosophical and contextual background of pollution law as well as the current system of pollution law in NSW.
- Possess the conceptual frameworks for analysing the adequacy of our legal system in this field.
- Examine the evolution of pollution law and make some assessment of how it can be expected to develop in the future having regard to the objectives of sustainable development.
- Construct and evaluate arguments about the effectiveness of pollution law having regard to the challenges of enforcement and compliance.
- Make recommendations for law reform and/or further research needed to address cross-cutting issues.
- Critically analyse cross-cutting and emerging interdisciplinary issues in pollution law such as contaminated land issues, product stewardship, corporate social responsibility and market mechanisms.

Research Assignment
Due: Monday 18 November
Weighting: 50%
Critical Research Assignment

This Assessment Task relates to the following Learning Outcomes:
- Possess the conceptual frameworks for analysing the adequacy of our legal system in this field.
- Construct and evaluate arguments about the effectiveness of pollution law having regard to the challenges of enforcement and compliance.
- Make recommendations for law reform and/or further research needed to address cross-cutting issues.
• Critically analyse cross-cutting and emerging interdisciplinary issues in pollution law such as contaminated land issues, product stewardship, corporate social responsibility and market mechanisms.

Delivery and Resources

Every student must acquire a copy of the textbook, which will be used throughout the semester: Lyster R, Lipman Z, Franklin N, Wiffen G & Pearson L, Environmental and Planning Law in NSW, Sydney: The Federation Press, 3rd ed, 2012. Other essential reading is listed below:


16. Contaminated Land Management Act 1997 (NSW) at www.austlii.edu.au

17. SEPP 55 – Remediation of Land (NSW)


Both assignments are to be submitted through Turnitin. You will find the Turnitin link for each assignment in the iLearn folder for the assignment.

Students taking this unit externally must attend the three-day on-campus session on 19-21 September, or they will fail the unit.

**Unit Schedule**

Week 1
Introduction to unit

Required reading:

Lyster et al, Federation Press (3rd 2012), Ch 1, pp 22-38.


Week 2

**Historical Background to Pollution & Regulation**

*Required reading:*


Week 3
The Role of the Common Law

Required reading:

Lyster et al, Ch 1, pp 1-15.


Week 4

The Role of the Commonwealth

Required reading:

Lyster et al, Ch 1, pp 15-22; Ch 13, pp 532-534.

Week 5

Administrative Remedies

Required reading:

Lyster et al, Ch 13, 534-554.

Week 6

Criminal Liability

Unit guide LAW 858 Pollution, Law and Environmental Management

https://unitguides.mq.edu.au/unit_offerings/15783/unit_guide/print
Required reading:

Lyster et al, Ch 13, pp 554-589.


Week 7

Enforcement and Sentencing

Required reading:

Lyster et al, Ch 13, pp 590-606.


Week 8

Economic Incentives

Required reading:

Lyster et al, Ch 13 605-611.

Week 9

Waste Management

Required reading:

Lyster et al, Ch 14, pp 626, 635-651.

Week 10

Product Stewardship

Required reading:

Lyster et al, Ch 14, pp 627-635.


Week 11

Contaminated Land

Required reading:

Lyster et al, Ch 14, pp 651-670.


**Week 12**

**Strategies for Managing Chemicals**

*Required reading:*

Lyster et al, Ch 15, pp 673-715.

**Week 13**

**Corporate Social Responsibility**

*Required reading:*

Lyster et al, Ch 16, pp 72.

**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:

In addition, a number of other policies can be found in the Learning and Teaching Category of Policy Central.

Student Support

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at: http://students.mq.edu.au/support/

UniWISE provides:

- Online learning resources and academic skills workshops http://www.students.mq.edu.au/support/learning_skills/
- Personal assistance with your learning & study related questions.
- The Learning Help Desk is located in the Library foyer (level 2).
- Online and on-campus orientation events run by Mentors@Macquarie.

Student Enquiry Service

Details of these services can be accessed at http://www.student.mq.edu.au/ses/.

Equity 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.

IT Help

If you wish to receive IT help, we would be glad to assist you at 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 and it outlines what can be done.

Graduate Capabilities

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

- Construct and evaluate arguments about the effectiveness of pollution law having regard to the challenges of enforcement and compliance.
- Critically analyse cross-cutting and emerging interdisciplinary issues in pollution law such as contaminated land issues, product stewardship, corporate social responsibility and
market mechanisms.

**Assessment task**

- Research Assignment

**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 outcome**

- Analyse hypothetical legal problem situations and formulate and present appropriate oral and written arguments in response.

**Assessment tasks**

- Theoretical Assignment
- Research Assignment

**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 a thorough understanding of the basic principles and policies underlying pollution law, and how they may be used to achieve environmental goals.
- Understand the historical, philosophical and contextual background of pollution law as well as the current system of pollution law in NSW.

**Assessment task**

- Theoretical Assignment

**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**

- Possess the conceptual frameworks for analysing the adequacy of our legal system in this field.
- Examine the evolution of pollution law and make some assessment of how it can be expected to develop in the future having regard to the objectives of sustainable development.
- Analyse hypothetical legal problem situations and formulate and present appropriate oral and written arguments in response.

**Assessment task**

- Participation

**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 outcomes**

- Construct and evaluate arguments about the effectiveness of pollution law having regard to the challenges of enforcement and compliance.
- Make recommendations for law reform and/or further research needed to address cross-cutting issues.

**Assessment task**

- Participation

**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 outcome**

- Make recommendations for law reform and/or further research needed to address cross-
Assessment tasks

- Participation
- Research Assignment

Assessment Information

Theoretical Assignment

Due Date:
Wednesday 16 October

Weight: 35%

Choice of one from two set questions. Written essay based upon first 4 weeks of readings. Involves a more theoretical, conceptual evaluation rather than a doctrinal analysis.

Length: 2,000 words. Both this assignment and the research report are to be submitted through Turnitin.

Class participation

Due Date:
OCS 19-21 September

Weight: 15%

Students are required to select one of the topics in the OCS Guide and prepare a 15-minute presentation for delivery in that session, ideally with power point overheads. The presentation need not be original but must be based on the readings for that topic. Students should email their choice of topic to the Unit Convenor, which will be approved subject to a satisfactory spread of topics. 10% of marks will be allocated for the presentation and it is a compulsory component of the unit. Students are also required to discuss reading materials as listed on the OCS. Please be aware that OCS attendance is compulsory and that a roll will be taken each day.

Research Assignment

Due Date:
Monday 18 November

Weight: 50%

Written essay on a set topic or on a research topic of student’s choice. Students are free to choose any topic for research provided it is relevant to LAW858. The assignment should involve independent research, critical analysis and an analytic approach to the issues raised. An abstract of the proposed research paper is to be submitted for the approval of the convenor.
before 17 October. There will be an opportunity for discussion at the OCS session.

For students who prefer a set question, there is a choice of questions, including a problem question. Length of assignment: 3,500 words.