GSE 801
Environmental Law and Policy
S1 Evening 2015
Department of Geography and Planning

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https://unitguides.mq.edu.au/unit_offerings/44689/unit_guide/print
General Information

Unit convenor and teaching staff
Unit convenor
John Whitehouse

john
Contact via jfwhitehouse@bigpond.com

off campus
Please email

Administrator
Wendy Goldstein
wendy.goldstein@mq.edu.au
Contact via 9850 6299
E8A 372
by appointment

Sara Fuller
sara.fuller@mq.edu.au

Credit points
4

Prerequisites
Admission to MEnv or PGDipEnv or PGCertEnv or MEnvEd or PGDipEnvEd or PGCertEnvEd or MEnvMgt or PGCertEnvMgt or MEnvStud or PGDipEnvStud or MEnvPlan or MEnvSc or MPP or PGDipPP or MSusDev or PGDipSusDev or PGCertSusDev or MClimCh or MWldMgt or PGDipWldMgt or PGCertWldMgt or MMarScMgt or MSc in (Remote Sensing and GIS or Environmental Health) or PGDipSc in (Remote Sensing and GIS or Environmental Health) or PGCertSc in (Remote Sensing and GIS or Environmental Health) or GradDipEnv or GradDipSusDev or GradCertSusDev or GradCertEnvPlan or MConsBiol or GradDipConsBiol

Corequisites

Co-badged status
Unit description
This unit provides an introductory overview to environmental law at an international, Commonwealth and New South Wales level. The subject of environmental law covers a wide area including: natural resources management, nature conservation, land use and town planning, local government, pollution and heritage. The unit provides a basic understanding of environmental law to students from a broad range of disciplines. The unit will assist students in understanding the legal framework affecting all environmental practitioners and bring an understanding of the policies underlying environmental law.

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:

An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
An understanding of the principles and theoretical basis of environmental law.
An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
A practical understanding of the role of environmental law in the context of environmental decision-making
Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate
Able to Critically analyse cases and real life development problems
Able to analyse a factual situation and identify potential solutions
Able to employ innovative approaches to resolve environmental problems

General Assessment Information
Assignments are to be handed to the Unit Convenor in class and submitted electronically to Turnitin.

PLEASE NOTE: In order to successfully complete this unit students must:

- attend at least 80% of scheduled lectures;
- attend and participate in all class discussions and activities;
- complete all assignments or other assessment;
- reach a satisfactory postgraduate level of achievement in such assignments or other assessment as may be determined by the Head of the Department
There is no formal examination for this unit.

Unit assessment will consist of four elements: a written case commentary (10%) a written assignment (40%), an essay (40%), and class assessment (10%). Grades will be determined based on your overall performance and not merely your total marks. An especially poor performance in one of the assessment components would normally preclude the award of a higher grade. Late submission of assessment elements will incur penalties unless supported by a proper medical excuse.

Assignments that are overdue or involve plagiarism will attract marking penalties.

The two major assignments are designed to develop problem-solving skills for a development problem and to provide a choice of research topics for detailed consideration and original analysis.

Feedback on student assignments will be provided in written comments on assignments. Additionally a Model Answer will be provided for Assignment 3. It is anticipated feedback will be provided 2 weeks after an assignment's due date.

### Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assignment 1</td>
<td>10%</td>
<td>March 31</td>
</tr>
<tr>
<td>Assignment 2</td>
<td>40%</td>
<td>April 28</td>
</tr>
<tr>
<td>Assignment 3</td>
<td>40%</td>
<td>June 2nd</td>
</tr>
<tr>
<td>Class Assessment 4</td>
<td>10%</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Assignment 1

**Due:** March 31  
**Weighting:** 10%

Written component (short commentary on set readings)

**Length:** 1500 words

Assignment 1 is designed to ensure students develop skills to read, analyse and understand court judgments. Given the significant number of court judgments reviewed in this unit, a sound understanding of how to read, analyse and assess judgments is a fundamental skill.

Note further details and reading will be provided to enrolled students.
On successful completion you will be able to:

- An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
- An understanding of the principles and theoretical basis of environmental law.
- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate
- Able to analyse a factual situation and identify potential solutions

Assignment 2
Due: April 28
Weighting: 40%

An essay on one of a range of topics on environmental law and policy.

Length: 3000 words

Assignment 2 provides an opportunity for students to specialise and explore in depth a specific area of their choice from a number of essay questions. It is designed to develop research and analysis skills in a policy area and provide an opportunity for original thought.

Note further information on this assessment and references will be provided to enrolled students.

On successful completion you will be able to:

- An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
- An understanding of the principles and theoretical basis of environmental law.
- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

Assignment 3
Due: June 2nd
Weighting: 40%

The assignment involves preparing advice on the application of environmental legislation to particular development proposal

Length: 3000 words

Assignment 3 provides an opportunity to advise on a specific development problem to develop
skills in working with NSW planning law including the *Environmental Planning and Assessment Act* and environmental planning instruments.

More information and reading will be provided to students enrolled in the course.

On successful completion you will be able to:

- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate
- Able to Critically analyse cases and real life development problems
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

**Class Assessment 4**

Due: N/A  
Weighting: 10%

Participation in allocated class debate plus satisfactory class attendance (a minimum of 80% attendance)

Class Assessment provides an opportunity to develop oral presentation and argument skills for a particular policy question, while class attendance and participation is designed to demonstrate a student's active engagement in the unit.

On successful completion you will be able to:

- An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to employ innovative approaches to resolve environmental problems
Delivery and Resources

LECTURERS

The principal lecturer and course developer is

**Mr John Whitehouse** LL.B (Syd), BA (Syd), BSc (Macq), Grad Dip Leg Pr (UTS); Partner, Minter Ellison Solicitors, Visiting Fellow of the Graduate School of the Environment, Macquarie University. Associate, Department of Classics and Ancient History, Sydney University.

with guest lectures from

**Mr Simon Ball**, LL.B. (Hons 1) (UTS), B.Eng Civil and Environmental (Hons 2) (UTS), Grad. Dip. Leg. Pr., Partner, Minter Ellison

**Dr James Smith**, Legal Counsel, Transport for NSW. Accredited Specialist (Local Government & Planning Law), LLB (Hons 1) (UTS), B.Sc (Hon1) (UNSW), Ph.D (UNSW).

**Mr Luke Walker**, B.A. (Hons) (ANU), LL.B (Hons) (ANU), Grad Dip Leg Pr (COL), Senior Associate, Minter Ellison Solicitors

Contact John Whitehouse for all class and assessment enquiries via email to jfwhitehouse@bigpond.com

CLASSES

The unit will consist of thirteen sessions each of three hours duration. Attendance at each session is compulsory and constitutes part of the class assessment mark for the unit. After a couple of settling in weeks, each session will comprise initial student presentations/debates of a maximum of sixty minutes in total, followed by a short break, before returning to a mixture of lecture and class discussion. Preparation for each session is expected and will be assumed.

Sessions are from 6.30 pm to 9.30 pm.

The unit, although about the law, is not designed as a course for lawyers, but is one designed to provide a basic understanding of environmental law to students from a broad range of disciplines. Today the law impinges significantly on environmental management, and the course will assist students in understanding the legal framework affecting all environmental practitioners, irrespective of their core discipline.

The unit additionally seeks to bring an understanding of the policies underlying environmental law.

Given the broad range of topics covered in the unit, the coverage will of necessity be introductory. However the unit adopts a case-based approach, examining the operation of the law through decisions of superior courts in Australia. Active student participation in and preparation for each session is required.
READING: Required and Recommended texts and/or materials Textbooks

It is recommended that students purchase the following textbook for this course:


The Unit Outline on iLearn contains a comprehensive reading list of articles, cases and book extracts.

Unit participants are required to obtain the key NSW legislative provisions covered in the unit:

- *Environmental Planning and Assessment Act, 1979 as amended*
- *Environmental Planning and Assessment Regulation, 2000 as amended*

Copies of this legislation (including all amendments) may be downloaded from the internet ([http://www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

General Texts

In addition there are a number of additional texts covering the subject matter of this course. None of these additional texts is required to be purchased by students. Many of these texts are now out of date in view of recent legislative changes. Students may wish to refer to these texts for an initial overview of some topics, general principles or for additional information and references. Care must be taken however to check primary sources (legislation and case law) referred to in the texts since all commentary is quickly dated to the extent that it relies on such sources.

These additional texts are as follows:


Zada Lipman and Gerry Bates, *Pollution Law in Australia* (Lexis Nexis Butterworths, 2002)


Lee Godden and Jacqueline Peel, *Environmental Law. Scientific, Policy and Regulatory*

https://unitguides.mq.edu.au/unit_offerings/44689/unit_guide/print
Australian & Australian-related Journals

Environmental and Planning Law Journal, Thomson Lawbook Company

Local Government Law Journal, Thomson Lawbook Company

National Environmental Law Review (formerly Environmental Law News), National Environmental Law Association (NELA)

Australasian Journal of Natural Resources Law & Policy, Centre for Natural Resources Law and Policy, Faculty of Law, University of Wollongong

Legal Services

The following legal services comprise loose leaf up to date versions of the relevant statutory provisions together with commentaries and annotations on the particular provisions:

Planning and Development Service, New South Wales, Lawbook Co, 4 Loose Leaf Volumes (Annotated)

Local Government Planning and Environment Service New South Wales, 4 Loose Leaf Volumes, Lexis Nexis

Land and Environment Court Law and Practice, Law Book Co.

Legislation

The following New South Wales legislation and regulations (as amended) will be especially important for the course and each student should obtain a copy (as indicated under "Textbooks" above):

Environmental Planning and Assessment Act, 1979

Environmental Planning and Assessment Regulation, 2000

Law Reports

The following are the series of authorised law reports, which will be referred to during this course.

Local Government Reports of Australia (LGRA) Volumes 1 - 77 (Land and Environment Court Judges)

Local Government and Environment Reports of Australia (LGERA) Volume 78 onwards (continuing on from the LGRA)

Australian Planning Appeal Decisions (APA) Volumes 1 - 41 (Land and Environment Court Assessors), discontinued from 1992

Web-based Resources

The Library has Law database facilities that contain Law Reports, legislation, digests of legal
developments, abstracts and full-texts of articles, etc. at

http://www.lib.mq.edu.au/databases/. Choose database by area of study e.g. law, or by the name of specific database e.g. Lexis, or general topic.


All NSW Court decisions including Land and Environment Court decisions are available on the NSW Caselaw website. http://www.caselaw.nsw.gov.au.

Other legislation and court judgments are available on the Austlii website at: http://www.austlii.edu.au.

A very important web based legal research tool is the LawCite site at http://www.lawcite.org/. LawCite provides details of where a case has been cited in subsequent cases and hence assists in considering whether a case has been followed, overturned or modified by subsequent decisions.

Note that earlier court judgments may not be on the Web, but are found in the printed authorised law reports.

The Law Cite website (http://www.lawcite.org/) provides an invaluable research tool, particularly for locating cases and finding where a case has been considered in other cases.


Other useful sites are:

http://www.nsw.gov.au (The NSW Government website)
http://www.planning.nsw.gov.au (Department of Planning and Infrastructure website)
http://www.dfat.gov.au/ (Department of Foreign Affairs and Trade website)
http://www.eisil.org/index/ (International environmental law)
http://www.edo.org.au/ (Environment Defender’s Office)
http://www.ecolex.org/ (Gateway to international environmental law resources)
Environmental Planning Instruments

During the unit, a sample of environmental planning instruments will be examined. Copies of these documents will be provided as required or references to websites.


Library Research Skills

Web-based Resources:

The Library provides access to Law databases that contain Law Reports, legislation, digests of legal developments, abstracts and full-texts of articles, etc. You can find these through Multisearch http://multisearch.mq.edu.au/primo_library/libweb/action/search.do;jsessionid=E2E61E0D527AAEFAD64C0422995B1695?mode=Basic&vid=MQ&tab=databases&.

Choose your area of study from the drop-down menu e.g. Law or Environment, or general topic Multi-subject or format eg. Newspapers, Theses etc or search for the name of a specific database e.g. LexisNexis.

If you need physical or electronic items not held at Macquarie, you can request them from another library through an Interlibrary Loan: http://www.mq.edu.au/on_campus/library/borrowing/borrowing_from_other_libraries/

Library Research Skills:

The Library provides support for library research skills. You can find these:


2. For training for individuals or groups please contact the Research Librarian in your subject area: http://www.mq.edu.au/on_campus/library/research/research_librarians/

Law Research Librarians: Catie Croaker: (catie.croaker@mq.edu.au) or Melinda Stewart (Melinda.stewart@mq.edu.au).

3. For more information, the ideal is - Contact the Research Librarians - Use the Ask A Librarian service http://www.libanswers.mq.edu.au/

Other Resources

The details of readings for each class are provided to enrolled students through ilearn.
Technology
Internet access and computer are required to access the ilearn site, which holds additional information on readings for each session and assessments, web based documents, and law databases.

Unit Schedule

UNIT STRUCTURE
The unit will consist of thirteen sessions each of three hours duration. Attendance at each session is compulsory and constitutes part of the class assessment mark for the unit. After a couple of settling in weeks, each session will comprise initial student presentations/debates of a maximum of sixty minutes in total, followed by a short break, before returning to a mixture of lecture and class discussion. Preparation for each session by at least reading the Essential Readings is expected and will be assumed. Sessions are from 6.30 pm to 9.30 pm in E3B 117 Tute Room.

Tea and coffee will be provided during the break, but students should bring their own cup if they wish to have tea and coffee.

PLEASE NOTE: In order to successfully complete this unit, students must attend at least 80% of scheduled lectures.

UNIT SCHEDULE

<table>
<thead>
<tr>
<th>Week</th>
<th>Date</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>February 24</td>
<td>Law and the legal system</td>
</tr>
<tr>
<td>2</td>
<td>March 3</td>
<td>What is environmental law and policy?</td>
</tr>
<tr>
<td>3</td>
<td>March 10</td>
<td>International environmental law</td>
</tr>
<tr>
<td>4</td>
<td>March 17</td>
<td>Commonwealth environmental law</td>
</tr>
<tr>
<td>5</td>
<td>March 24</td>
<td>Environmental planning instruments</td>
</tr>
<tr>
<td>6</td>
<td>March 31</td>
<td>Development assessment process</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assignment 1 due – hand to unit convenor in class</td>
</tr>
<tr>
<td></td>
<td></td>
<td>MID-SEMESTER BREAK 3-20 APRIL</td>
</tr>
<tr>
<td>7</td>
<td>April 21</td>
<td>Applying planning instruments</td>
</tr>
</tbody>
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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 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.

Student Support

Macquarie University provides a range of support services for students. For details, visit [http://students.mq.edu.au/support/](http://students.mq.edu.au/support/)
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

• An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
• An understanding of the principles and theoretical basis of environmental law.
• An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
• A practical understanding of the role of environmental law in the context of environmental decision-making
• Students will be able to communicate their understanding in written reports and essays
and be able to make cogent arguments about environmental law in a debate
• Able to critically analyse cases and real life development problems
• Able to analyse a factual situation and identify potential solutions
• Able to employ innovative approaches to resolve environmental problems

Assessment tasks

• Assignment 2
• Assignment 3
• Class Assessment 4

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

• An introductory understanding of environmental law and policy at an international,
  Australia and New South Wales level.
• An understanding of the principles and theoretical basis of environmental law.
• An overview of the subject suitable for professionals practising in the area of
  environmental management who are not lawyers.
• A practical understanding of the role of environmental law in the context of environmental
  decision-making
• Able to critically analyse cases and real life development problems
• Able to analyse a factual situation and identify potential solutions
• Able to employ innovative approaches to resolve environmental problems

Assessment tasks

• Assignment 1
• Assignment 2
• Assignment 3
• Class Assessment 4

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**

- An introductory understanding of environmental law and policy at an international, Australia and New South Wales level.
- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to Critically analyse cases and real life development problems
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

**Assessment tasks**

- Assignment 2
- Assignment 3
- Class Assessment 4

**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**

- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to Critically analyse cases and real life development problems
- Able to analyse a factual situation and identify potential solutions
- Able to employ innovative approaches to resolve environmental problems

**Assessment tasks**

- Assignment 1
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**

- Students will be able to communicate their understanding in written reports and essays and be able to make cogent arguments about environmental law in a debate
- Able to Critically analyse cases and real life development problems
- Able to analyse a factual situation and identify potential solutions

**Assessment tasks**

- Assignment 1
- Assignment 2
- Assignment 3
- Class Assessment 4

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**

- An understanding of the principles and theoretical basis of environmental law.
- An overview of the subject suitable for professionals practising in the area of environmental management who are not lawyers.
- A practical understanding of the role of environmental law in the context of environmental decision-making
- Able to Critically analyse cases and real life development problems
- Able to employ innovative approaches to resolve environmental problems
Assessment task

- Assignment 3

Changes from Previous Offering

Comparison to 2014

In 2014, GSE801 has a similar structure and content, but is updated to take account of recent policy and legislative changes and recent judicial decisions.