



LAW 851

Climate Change Law

S3 Block 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor

Judith Preston

judith.preston@mq.edu.au

Contact via By email

N/A

By appointment

Lise Barry

lise.barry@mq.edu.au

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 financial mechanisms for climate mitigation.

Demonstrate an advanced understanding of the development of climate law and climate litigation 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 climate law, climate litigation and renewable energy schemes in Australia with those in other countries and regions particularly the Asia and South-Pacific regions.

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

Display critical thinking and engagement with justice/ethical considerations particular to the field of climate change and relevant legal frameworks 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 be 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
InforMEA/ Unitar Climate Law	15%	No	6 December 2019, 5pm
Reflection-Peoples' Tribunal	20%	No	30 December 2019, 5pm
Participation	15%	No	14-16 December 2019
Research Paper	50%	No	13 January 2019, 5pm

InforMEA/ Unitar Climate Law

Due: **6 December 2019, 5pm**

Weighting: **15%**

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 6 December 2019 onto iLearn. Students are 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 financial mechanisms for climate mitigation.
- Critically compare legal and policy developments in climate law, climate litigation and renewable energy schemes in Australia with those in other countries and regions particularly the Asia and South-Pacific regions.

Reflection-Peoples' Tribunal

Due: **30 December 2019, 5pm**

Weighting: **20%**

The reflection concerns your participation in the group task involving a submission for a nominated stakeholder to the Peoples' Tribunal who will decide whether the climate change issues concerning the approval of a hypothetical major mine project in 2025 for the Galilee Basin in Queensland reflects Australia's compliance with its obligations under the United Nations Convention on Climate Change and the Paris Agreement 2015.

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 Version 4**.

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 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 climate law, climate litigation and renewable energy schemes in Australia with those in other countries and regions particularly the Asia and South-Pacific regions.
- Express developing and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
- Display critical thinking and engagement with justice/ethical considerations particular to the field of climate change and relevant legal frameworks 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.

Participation

Due: **14-16 December 2019**

Weighting: **15%**

Students are to actively participate in the OCS by undertaking the essential reading, physically attending all sessions, asking relevant questions or making pertinent comments within the sessions. Participation also includes forming part of a group, active engagement to prepare an oral submission and written summary of 500 words (max) as well as being present to deliver the

submission to the members of the Peoples' Tribunal on Sunday 16 December 2019.

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 climate law, climate litigation and renewable energy schemes in Australia with those in other countries and regions particularly the Asia and South-Pacific regions.
- Express developing and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
- Display critical thinking and engagement with justice/ethical considerations particular to the field of climate change and relevant legal frameworks 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.

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. If students are unsure about a proposed topic, an abstract may be submitted to the Convenor within two weeks of the conclusion of the OCS, for approval .

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.

Maximum length: 4,000 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 current version of 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 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 climate law, climate litigation and renewable energy schemes in Australia with those in other countries and regions particularly the Asia and South-Pacific regions.
- Express developing and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
- Display critical thinking and engagement with justice/ethical considerations particular to the field of climate change and relevant legal frameworks 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.

Delivery and Resources

Intensive Block from Saturday December 14, 2019 to Monday December 16, 2019 (inclusive). All teaching materials including readings will be available on iLearn.

Recommended textbooks:

Kevin R. Gray, Richard Tarasofsky, and Cinnamon Carlarne (eds), [*The Oxford Handbook of International Climate Change Law*](#) (Oxford University Press, 2016).

D.A. Peeters and Marjan Peeters, *Climate Change Law* (Edward Elgar Publishing, 2016).

[Both books are available online at Macquarie University Library.](#)

Unit Schedule

Day 1 (Saturday 14 December 2019)

Morning sessions (9.00am - 1.00pm)

9.00am - 10.45am

Welcome to Country.

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

10.45am - 11.15am

Morning break.

11.15am - 12.15 pm

Situating Climate Change in the Sixth Mass Extinction. Can Earth law support regulation

of adverse climate impacts? (**Dr Michelle Maloney**, Convenor of Australian Earth Laws Alliance).

12.15pm - 1.00pm

First Nations, developing countries and climate justice (**Dr Michelle Maloney** (AELA), **Quintin Gravatt** (Special Technical Advisor at Vaturisu) and **Professor Donna Craig** (Western Sydney University)).

1.00pm - 1.45pm

Lunch.

Afternoon sessions (2.00pm - 5.30pm)

2.00pm - 3.00pm

The International climate law framework (**The Honourable Justice Dr Brian Preston**, Chief Judge of the Land and Environment Court).

3.00pm - 3.15pm

Afternoon break.

3.30pm - 5.30pm

International climate framework and domestic implementation (**The Honourable Justice Dr Brian Preston**, Chief Judge of the Land and Environment Court).

Day 2 (Sunday 15 December 2019)

Morning sessions (9.00am - 1.00pm)

9.00am - 11.00am

Climate litigation (**The Honourable Justice Dr Brian Preston**, Chief Judge of the Land and Environment Court).

11.00am - 11.30am

Morning break.

11.30am - 1.00pm

Human Rights heritage and climate law (**Professor Ben Boer**, University of Sydney and Wuhan University).

1.00pm - 2.00pm

Lunch.

Afternoon sessions (2.00pm - 5.30pm)

2.00pm - 3.15pm

Australian climate change law framework at national and state level (**The Honourable Justice Dr Brian Preston**, Chief Judge of the Land and Environment Court).

3.15pm - 3.30pm

Afternoon break.

3.30pm - 4.15pm

Renewable energy and trends in Australia and the Asia Pacific region (**Mr David Robinson**, solicitor with Epuron Pty Ltd and Renewable Energy Education Projects Ltd).

4.30pm - 5.30pm

Climate Change legislation in the Asia Pacific region - Recent developments in Fiji (**Sophie Whitehead** - solicitor at Baker McKenzie Lwyers).

Day 3 (Monday 16 December 2019)

Morning sessions (9.00am - 1.00pm)

9.00am - 10.00am

Intergenerational equity and youth climate advocacy (**Shannon Peters** and **Judith Preston**).

10.00am - 11.00am

Climate change adaptation and urban areas (**Dr Jenny Scott**, Kuring-gai Council and **Ana Carneiro**, PhD candidate).

11.00am - 11.15am

Morning break.

11.15am - 1.15pm

Student preparation for submissions to Peoples' Tribunal.

1.15pm - 2.00pm

Lunch.

Afternoon sessions (2.00pm - 5.30pm)

2.30pm - 5.30pm

Peoples' Tribunal hearing on the question of 'Whether Australia is meeting its obligations under the UNFCCC Paris Agreement with regard to the climate change impacts of the Federal and Queensland governments approving a major coal mine in the Galilee Basin in Queensland in 2020?'

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 published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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 or if you are a Global MBA student contact globalmba.support@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) 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

If you are a Global MBA student contact globalmba.support@mq.edu.au

IT Help

For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

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

- Demonstrate an advanced understanding of the development of climate law and climate litigation 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.
- Express developing and supported views on options for formulating long-term legal responses to climate change at the domestic and international levels.
- Display critical thinking and engagement with justice/ethical considerations particular to the field of climate change and relevant legal frameworks 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-Peoples' Tribunal
- 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 financial mechanisms for climate mitigation.
- Demonstrate an advanced understanding of the development of climate law and climate litigation 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 climate law, climate litigation and renewable energy schemes in Australia with those in other countries and regions particularly the Asia and South-Pacific regions.

Assessment tasks

- InforMEA/ Unitar Climate Law
- Reflection-Peoples' Tribunal
- Participation
- 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 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-Peoples' Tribunal
- Participation
- 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 financial mechanisms for climate mitigation.
- Demonstrate an advanced understanding of the development of climate law and climate litigation 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.
- Express developing 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

- Reflection-Peoples' Tribunal
- Participation
- 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 critical thinking and engagement with justice/ethical considerations particular to the field of climate change and relevant legal frameworks such as in relation to protection of natural and cultural heritage and human rights.

Assessment tasks

- Reflection-Peoples' Tribunal
- Participation
- 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-Peoples' Tribunal
- Participation

- Research Paper