



# LAWS540

## Local Government and Planning Law

S1 External 2019

*Macquarie Law School*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Paul Govind

[paul.govind@mq.edu.au](mailto:paul.govind@mq.edu.au)

Contact via [paul.govind@mq.edu.au](mailto:paul.govind@mq.edu.au)

Credit points

3

Prerequisites

(24cp in LAW or LAWS units) or (39cp at 100 level or above including POL207) or ((ENVG212 or GEOP212) and 6cp at 300 level and admission to BPlan)

Corequisites

Co-badged status

Unit description

This unit examines contemporary issues in land use planning law. The focus is on land in an urban context with particular emphasis on the regulation of land use under the Environmental Planning and Assessment Law 1979 (NSW). The unit provides an understanding of the workings of land use regulation in New South Wales and the underlying social, cultural and economic objectives of the key legislation. A critical analysis is undertaken of the effectiveness of the current regulatory regime including reform proposals and options. Discussion and analysis of the relevant case law with practical examples of planning issues are included.

## 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:

Apply the key principles, policies and ideologies underlying planning and development law.

Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.

Critically analyse and evaluate the principles and implementation of Ecologically

Sustainable Development in contexts relevant to planning and development law at each level of government

Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.

Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.

Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.

Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.

Students will demonstrate an ability to exercise autonomy in their research and writing.

## General Assessment Information

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.

Detailed marking rubrics will be made available on iLearn.

All assessments that receive a FAIL grade are double marked.

All assessments in the Unit are to be submitted electronically. Plagiarism detection software is used in this Unit.

Where there is a word limit no work over the limit will be read by the marker.

All written work must (where relevant) be referenced in accordance with the *Australian Guide to Legal Citation* (4th edition). Please use this link: <https://law.unimelb.edu.au/mulr/aglc>

## Assessment Tasks

| Name                              | Weighting | Hurdle | Due              |
|-----------------------------------|-----------|--------|------------------|
| <a href="#">Participation</a>     | 20%       | No     | Ongoing          |
| <a href="#">LEP research task</a> | 0%        | Yes    | 11:55pm; March 8 |

| Name                    | Weighting | Hurdle | Due               |
|-------------------------|-----------|--------|-------------------|
| <u>Research Essay</u>   | 40%       | No     | 11:55pm; April 22 |
| <u>Final Assessment</u> | 40%       | No     | 11:55pm; June 7   |

## Participation

Due: **Ongoing**

Weighting: **20%**

Participation is composed of two tasks - in class and online participation.

Class participation will be assessed in weekly tutorials for internal students and during the On Campus Session (OCS) for external students. Students should ensure they have completed the required reading before tutorials or the OCS. The dates from the OCS can be found on the timetable.

Students must be prepared to discuss this material during the OCS.

Readings and tutorial questions will be supplied in a separate document posted on the iLearn webpage.

Participation will involve: exploring, analysing and applying the principal issues covered in the unit, answering questions put directly to you, engaging in formal and informal debates, group work, and constructing and presenting legal arguments. Class participation will be assessed on:

- \* Demonstration of knowledge of the readings.
- \* Level of critical analysis displayed
- \* Relevant original contributions
- \* Ability to engage constructively with other students and the Tutor
- \* Your ability to make an educated and legally feasible arguments in class.

Note that no marks are awarded just for attending class, and that assessment is based on the quality, not quantity, of your work in class.

Students should also note that the onus to participate in class is on you, not on the Convenor. In other words, it is not the job of the Convenor to engage you in discussion so that you may avail yourself of the class participation assessment.

### Online participation

Starting in Week 3 a forum will be open each week for a period of two weeks.

Each forum will be based upon a media article selected and posted by the Convenor that focuses upon an issue relevant to environmental planning law.

Students are to post a reflective response to topics/issues raised in the article. Your reflections should draw on your past knowledge and experience, your new knowledge (from the textbook, readings and lectures) and your conclusions about any changes in your attitudes or future practice that will be based on this experience. Further guidance on how to draft a reflective response will be provided through the iLearn page for the unit.

You need to **complete a forum posting and reply to a posting by another student** that meets

the relevant rubric (made available on iLearn) in at least 2 of the 4 forums over the session in order to be eligible to submit and receive a grade for your Assessment Task.

Students may post on as many forums as they like through the session and nominate the 2 postings of their preference for the purposes of assessment.

Once you have posted your reflections, you will be able to see the questions and answers of your fellow seminar colleagues. You may respond and engage in discussion with as many of the postings each week as you wish.

On successful completion you will be able to:

- Apply the key principles, policies and ideologies underlying planning and development law.
- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.
- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.

## LEP research task

Due: **11:55pm; March 8**

Weighting: **0%**

**This is a hurdle assessment task (see [assessment policy](#) for more information on hurdle assessment tasks)**

The LEP (Local Environmental Plan) is a vital instrument in environment and planning law. The task is a mandatory hurdle assessment that requires students to search for and identify the LEP

that regulates the area in which they live. Students must pass this assessment to pass the course.

Having located the relevant LEP students must then answer a set of prescribed questions that shall be made available within the first week of session 1.

The task is designed to introduce students early to the rationale, objects and purpose of planning instruments in a manner that utilises the context of a local community that the student is inherently familiar with. This will prepare students for the later tasks of analysing how LEPs and other planning instruments are made, the legal value attached to them and other themes that correlate with the overall objectives of the course.

Word limit - 500 words

This task (like all assessment tasks) is to be submitted via turnitin through iLearn.

On successful completion you will be able to:

- Apply the key principles, policies and ideologies underlying planning and development law.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.

## Research Essay

Due: **11:55pm; April 22**

Weighting: **40%**

All students are required to answer a conceptually based research essay question in 2,500 words based *primarily* (but NOT exclusively) on the unit readings for weeks 1 to 7 and additional references as set out on the *Course Schedule and Reading List*. As stated in the Learning Outcomes students are required to conduct research outside the provided material to find ideas and information appropriate to solving problems (or answering questions) that are posed to them and relevant to the issues under examination.

The question(s) will be released in the third week of the semester.

This task (like all assessment tasks) is to be submitted via turnitin through iLearn.

On successful completion you will be able to:

- Apply the key principles, policies and ideologies underlying planning and development law.
- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.

- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.
- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.
- Students will demonstrate an ability to exercise autonomy in their research and writing.

## Final Assessment

Due: **11:55pm; June 7**

Weighting: **40%**

An assessment task involving hypothetical scenarios and giving appropriate legal advice testing practical application of law to facts will be released via the iLearn page. Further details will be provided during the course of the semester.

This is a timed assessment and no late submissions will be accepted.

The question is released June 6 at 9am.

The task is designed to be completed within two days.

This task (like all assessment tasks) is to be submitted via turnitin through iLearn.

On successful completion you will be able to:

- Apply the key principles, policies and ideologies underlying planning and development law.
- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative

and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.

- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.
- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.

## Delivery and Resources

The unit will be taught as both an External unit and as an Internal unit. Attendance at the On Campus Session (OCS) is **compulsory**. **If you cannot attend the OCS then you are advised to not enrol in the course. If you refer to the assessment section you will see that in class participation is assessed during the OCS.**

### Workload

The workload in a 3cp undergraduate unit and a 4cp postgraduate unit is equivalent to 150 hours. A student should devote ten hours of study per week to the unit (inclusive of listening to lectures, required reading, tutorials and assessment preparation.) However, this is a guide only and each student should assess the hours required based on his/her own specific needs. Note that students are expected to work on private study, assignments completion, etc, in the two-week mid-semester break.

### Delivery

This unit heavily utilizes iLearn for all communication purposes. Announcements, lecture recordings, assessments etc. all operate upon the iLearn platform.

It is therefore vital that students familiarize themselves with the iLearn platform and its operations if they haven't done so previously.

Students should regularly check the unit web page on iLearn to keep up with information for students entered by the Unit Convenor. There may be information placed on the web page at short notice concerning attendance, cancelled or postponed classes and relevant assessment items and dates. Attending on the right dates is your responsibility and mistakes with attendance may result in your failing of the unit.

Further, iLearn is utilised for the purposes of discussion forums, both teacher led and those that are exclusively for the use of students. It is highly recommended that students keep up to date with forum discussion as it features topical news items relevant to the course etc.

### Resources -



There is no prescribed textbook for this course in 2019. The materials will consist of articles (peer reviewed and non-peer reviewed), book chapters, cases, legal instruments and other publications.

This will be detailed in a List of Readings published on iLearn in the week prior to the commencement of Session 1, 2019.

Some key chapters of the textbook used in previous years will be listed. Copies will be placed on reserve in the Library.

(See: Lyster, R., Lipman, Z., Franklin, N., Wiffen., G and Pearson, L *Environmental and Planning Law in NSW* (4th Edition, The Federation Press, 2016)

**NB: A weekly lecture guide and tutorial questions will be supplied in a separate document posted on the iLearn website.**

## 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](mailto:ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

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

## 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](mailto:ask.mq.edu.au)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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/](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 outcomes**

- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Students will demonstrate an ability to exercise autonomy in their research and writing.

## **Assessment tasks**

- Participation
- Research Essay

## **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**

- Apply the key principles, policies and ideologies underlying planning and development law.
- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.

- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.

## **Assessment tasks**

- LEP research task
- Final Assessment

## **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**

- Apply the key principles, policies and ideologies underlying planning and development law.
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Students will demonstrate an ability to exercise autonomy in their research and writing.

## **Assessment tasks**

- Research Essay
- Final Assessment

## **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**

- Apply the key principles, policies and ideologies underlying planning and development law.

- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.
- Students will demonstrate an ability to exercise autonomy in their research and writing.

## **Assessment tasks**

- Participation
- LEP research task
- Research Essay
- Final Assessment

## **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**

- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.

- Students will demonstrate an ability to exercise autonomy in their research and writing.

## **Assessment tasks**

- Participation
- Research Essay
- Final Assessment

## **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**

- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.
- Critically analyze the Environmental Planning and Assessment Act and related planning instruments in providing legal regulation for land use management.

## **Assessment tasks**

- LEP research task
- Final Assessment

## 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 outcomes

- Apply the key principles, policies and ideologies underlying planning and development law.
- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.
- Identify and critique the role of the Land and Environment Court in the assessment of development and protection of the environment including public participation mechanisms.
- Analyze environmental challenges, such as climate change, that will affect planning law in the future and how to combat these issues whilst balancing competing interests related to economic benefits of land use planning and development.

### Assessment tasks

- Participation
- Research Essay
- Final Assessment

## 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 outcome**

- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government

## **Assessment tasks**

- Research Essay
- Final Assessment

## **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**

- Apply the key principles, policies and ideologies underlying planning and development law.
- Identify, explain and apply the regulatory scheme for assessment and approval of land use development at federal, state and local levels.
- Critically analyse and evaluate the principles and implementation of Ecologically Sustainable Development in contexts relevant to planning and development law at each level of government
- Evaluate the effectiveness and accountability of public authorities (executive, legislative and judicial) and citizens involved in environmental planning and assessment with a focus on the local and state levels of government.

## **Assessment tasks**

- LEP research task
- Research Essay
- Final Assessment