



# LAWS12067 *Environmental Law*

## Term 3 - 2017

Profile information current as at 17/05/2024 09:11 am

All details in this unit profile for LAWS12067 have been officially approved by CQUniversity and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

### General Information

#### Overview

The environmental movement is strong and getting stronger. It is an important social revolution. Environmental law is a new and exciting area of legal practice. The Constitution of Australia does not include power for the Federal Parliament to make laws in relation to the environment. In this unit we will consider how the Commonwealth does have a role to play in environmental law despite its lack of constitutional power. We consider the role of State Governments at the Parliamentary and Executive level. The impact of environmental groups has gained more momentum year by year; after an initial explosion of publicity which led to blockade of the Franklin River and ultimately the High Court Tasmanian Dam decision in 1983. New philosophies such as the precautionary principle will be explored and explained. The apparent conflict between environmental law rights which are in the public domain and landowners' property and contractual rights in relation to land will be considered. We will also deal with environmental litigation, including prosecution and the difficulties which face environmental groups. Discussion points include recent developments such as the extraction of coal seam gas and the development of the Gas Fields Commission. We explore the process of environmental impact assessment.

#### Details

Career Level: *Undergraduate*

Unit Level: *Level 2*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

#### Pre-requisites or Co-requisites

Prerequisites: LAWS11057, LAWS11059, LAWS11061, LAWS11062, LAWS11063, LAWS11064, LAWS11060, (LAWS11065 or LAWS12055)

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

#### Offerings For Term 3 - 2017

- Distance

#### Attendance Requirements

All on-campus students are expected to attend scheduled classes – in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

#### Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

## Class and Assessment Overview

### Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

### Class Timetable

#### [Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

#### [Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

### Assessment Overview

#### 1. **Written Assessment**

Weighting: 25%

#### 2. **Written Assessment**

Weighting: 25%

#### 3. **Written Assessment**

Weighting: 50%

### Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

## CQUniversity Policies

**All University policies are available on the [CQUniversity Policy site](#).**

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

## Previous Student Feedback

### Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

#### Feedback from John Milburn, course coordinator

##### **Feedback**

In 2015/6, students were required to sit an invigilated examination. An alternative would be a take-home paper.

##### **Recommendation**

It is recommended that the end of term assessment be in the form of take-home paper, rather than an invigilated examination.

#### Feedback from John Milburn, course coordinator

##### **Feedback**

This course provides students with a commentary in relation to environmental law principles from an academic and practical perspective. The practical aspect needs to be emphasised to a greater degree.

##### **Recommendation**

In 2015/6, students of LAWS12067 were taught primarily from an academic perspective. The practical perspective does need to be emphasised to a greater degree. To provide students with a better practical perspective to the study of environmental law, in LAWS12067 greater emphasis should be placed upon the drafting of pleadings component in the assessment regime. Student learning should be supplemented with the requirement that students study a current case proceeding through the Planning and Environment Court.

#### Feedback from John Milburn, course coordinator

##### **Feedback**

I am very satisfied with the text 'Environmental Law in Australia' by Gerry Bates. I am keen to see it remain as the prescribed text for LAWS12067.

##### **Recommendation**

While excellent, the text is academic in nature. As a result, I made a concerted effort to ensure that I supplemented the theoretical material with practical work and access to up-to-date online materials, including legislation, caselaw, practice directions and court files.

#### Feedback from John Milburn, course coordinator

##### **Feedback**

In 2015/6, I provided students with pre-recorded 'to camera' sessions where I commented upon and summarised the text material for the week. I supplemented that regime with live sessions with students through Zoom each week. In addition, I provided students with some pre-recorded (and live) sessions involving myself and industry experts, where we discussed topics of interest to students enrolled in LAWS12067. My guests included QCs (one of whom is now a judge), an environmental lawyer, an environmental scientist, a town planner and a community litigant. I trust the material provided some practical insight for students.

##### **Recommendation**

The continuing involvement of industry experts, who provide specialist commentary to supplement the written materials and textbook, is recommended.

## Unit Learning Outcomes

### **On successful completion of this unit, you will be able to:**

1. Describe the basic structure, institutions, key functions and processes of the Australian legal systems within which environmental law operates.
2. Analyse major topics and key issues such as environmental property rights, access to and management of the environment, environmental protection measures and environmental litigation with reference to the relevant sources of legal authority..
3. Identify and respond to the types of legal problems and issues likely to be embedded in commonly encountered environment-related activities.
4. Explain the environmental law litigation process and alternative dispute resolution procedures.

## Alignment of Learning Outcomes, Assessment and Graduate Attributes

 N/A Level	 Introductory Level	 Intermediate Level	 Graduate Level	 Professional Level	 Advanced Level
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### Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Written Assessment - 25%	•	•	•	•
2 - Written Assessment - 25%	•	•	•	•
3 - Written Assessment - 50%	•	•	•	•

### Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
1 - Communication				•
2 - Problem Solving	•	•	•	•
3 - Critical Thinking	•	•	•	•
4 - Information Literacy				
5 - Team Work				•
6 - Information Technology Competence				
7 - Cross Cultural Competence				
8 - Ethical practice				•
9 - Social Innovation				
10 - Aboriginal and Torres Strait Islander Cultures				

### Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
1 - Written Assessment - 25%	•	•	•							
2 - Written Assessment - 25%	•	•	•							

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
<b>3 - Written Assessment - 50%</b>	•	•	•							

## Textbooks and Resources

### Textbooks

LAWS12067

#### Prescribed

#### Environmental Law in Australia

Edition: 9th edn (2016)

Authors: Bates, G

Lexis Nexis Butterworths

Sydney , NSW , Australia

ISBN: 9780409341935

Binding: Paperback

[View textbooks at the CQUniversity Bookshop](#)

### IT Resources

**You will need access to the following IT resources:**

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- Access to UCROO

## Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 3rd ed](#)

For further information, see the Assessment Tasks.

## Teaching Contacts

**John Milburn** Unit Coordinator

[j.a.milburn@cqu.edu.au](mailto:j.a.milburn@cqu.edu.au)

## Schedule

### Week 1 - 06 Nov 2017

Module/Topic	Chapter	Events and Submissions/Topic
Introduction to Environmental Law	Bates chapter 1	

### Week 2 - 13 Nov 2017

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Law in Legal Context	Bates chapter 2	

### Week 3 - 20 Nov 2017

Module/Topic	Chapter	Events and Submissions/Topic
Environment Protection and the Common Law	Bates chapter 3	

**Week 4 - 27 Nov 2017**

Module/Topic	Chapter	Events and Submissions/Topic
International Environmental Law and Federal Governance	Bates chapters 4-6	

**Vacation Week - 04 Dec 2017**

Module/Topic	Chapter	Events and Submissions/Topic
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**Week 5 - 11 Dec 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Legislation/Ecologically Sustainable Development	Bates chapters 7-8	

**Week 6 - 18 Dec 2017**

Module/Topic	Chapter	Events and Submissions/Topic
Strategic Environmental Planning and Assessment	Bates chapters 9-10	

**Week 7 - 01 Jan 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Impact Assessment	Bates chapter 11	

**Week 8 - 08 Jan 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Protection of Biodiversity and Climate Change	Bates chapter 12-18	<p>Assessment #1 Case Note and Hypothetical Appeal Due Thursday 11 January 2018 at 11:45 PM</p> <p><b>Case Note and Hypothetical Appeal</b> Due: Week 8 Thursday (11 Jan 2018) 11:45 pm AEST</p>

**Week 9 - 15 Jan 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Litigation – Civil Law	Bates chapter 19	

**Week 10 - 22 Jan 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Litigation – Criminal Law	Bates chapter 20	<p>Assessment #2 Environmental Impact Case Study Due Thursday 25 January 2018 at 11:45 PM</p> <p><b>Environmental Impact Case Study</b> Due: Week 10 Thursday (25 Jan 2018) 11:45 pm AEST</p>

**Week 11 - 29 Jan 2018**

Module/Topic	Chapter	Events and Submissions/Topic
Challenging Environmental Decision-making /ADR	Bates chapter 21-22	

**Week 12 - 05 Feb 2018**

Module/Topic	Chapter	Events and Submissions/Topic
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Review

Nil

Take Home Paper on Friday 9 February 2018 commencing at 5:00 PM AEST and concluding at 8:00 PM AEST  
NOTE: When making unit selections, please check the timing of the take home papers in your other subjects to avoid a conflict.

**Take Home Paper** Due: Week 12  
Friday (9 Feb 2018) 8:00 pm AEST

#### Review/Exam Week - 12 Feb 2018

Module/Topic

Chapter

Events and Submissions/Topic

#### Exam Week - 12 Feb 2018

Module/Topic

Chapter

Events and Submissions/Topic

## Assessment Tasks

### 1 Case Note and Hypothetical Appeal

#### Assessment Type

Written Assessment

#### Task Description

#### Overview of the objectives for this exercise

You are required to read a case about an appeal against a council decision, make comment about it and provide advice about a hypothetical appeal against the decision.

You should be able to answer the questions in less than 1250 words in total.

### Required reading

Read the following case:

*Whitsunday Regional Council v Branbid Pty Ltd* [2017] QPEC 3

#### Assessment Due Date

Week 8 Thursday (11 Jan 2018) 11:45 pm AEST

I expect students to present their assignment work on time. Please note that I will not consider any request for an extension of time unless you upload an application in the appropriate manner, supported by documentation and made prior to the due time/date. I will impose a penalty deduction of 5% per day for late work.

#### Return Date to Students

Week 10 Monday (22 Jan 2018)

Student satisfaction surveys in the past indicate student concerns when a unit coordinator does not provide assessment feedback quickly. Generally, I release the feedback and marks the day after the final cut-off date (that is, I provide feedback and marks 10 days after the due date).

#### Weighting

25%

#### Assessment Criteria

I assess students on their ability to demonstrate thinking and writing skills, to comprehend the material, to process the material and to provide a critical analysis and logical discussion of the law. Students are required to communicate an answer clearly and logically and in a concise manner. I expect you to present your paper in a professional manner. Please paginate shall paper and used correct spelling and grammar. You must appropriately reference and attribute the work of others.

#### Fail

You will have shown evidence of the following:

- the written expression is poor and difficult to understand
- the answer is poorly organised
- referencing is generally inadequate

- lack of familiarity with the legislation and its application
- failure to identify and address the issues in the question
- reasoning and application demonstrated is poor

### **Pass**

You will have:

- made a conscientious attempt to address the topic and/or answer the question
- shown evidence of having done the required reading and of having understood the reading
- presented a reasonable argument to back up your conclusions
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing but this may need improvement
- issues that may need to be identified and addressed in more depth

### **Credit**

You will have:

- addressed the topic and/or answered the question directly
- presented soundly based arguments and backed these up with reasons
- gone beyond description to analysis of key issues
- used the English language well
- shown evidence of reading widely
- demonstrated understanding of the reading
- used referencing that is satisfactory

### **Distinction**

You will have:

- met the above criteria for a credit
- demonstrated the attainment of a high degree of understanding of the concepts of the course
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- made reference to all appropriate legislation

### **High Distinction**

You will have:

- met the above criteria for a distinction
- demonstrated the attainment of an outstanding level of achievement regarding the objectives of this course
- demonstrated an interesting and/or original approach/idea/argument
- demonstrated mastery of the relevant referencing system
- ensured conclusions are backed by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- ensured references are made to the appropriate legislation for particular issues

### **Referencing Style**

- [Australian Guide to Legal Citation, 3rd ed](#)

### **Submission**

Online

#### **Submission Instructions**

I will impose a penalty deduction of 5% per day for late work. Upload a single Word (not PDF) document. I will not accept work after 11:45 PM on Saturday 20 January 2018 (cut-off date). I will award you a 'nil' mark if you do not submit your work by the cut-off date.

#### **Learning Outcomes Assessed**

- Describe the basic structure, institutions, key functions and processes of the Australian legal systems within which environmental law operates.
- Analyse major topics and key issues such as environmental property rights, access to and management of the environment, environmental protection measures and environmental litigation with reference to the relevant sources of legal authority..
- Identify and respond to the types of legal problems and issues likely to be embedded in commonly encountered



- environment-related activities.
- Explain the environmental law litigation process and alternative dispute resolution procedures.

### Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking

## 2 Environmental Impact Case Study

### Assessment Type

Written Assessment

### Task Description

## Overview of the objectives for this exercise

You are required to consider a case study involving the Townsville Port Expansion Project application. You should be able to answer the questions in less than 1500 words in total.

## Required reading

You are required to read the document 'Townsville Port Expansion Project Additional Information to the Environmental Impact Statement (AEIS) - [Summary](#)'. You should also consider all of the environmental impact statement material, including the [terms of reference](#) relevant to the Townsville Port Expansion Project application. To complete the task you may need to consider the other documentation available on the Department of State Development, Coordinator-General's projects website in relation to the [application](#).

## Marks

I allocate 25 marks for the exercise. I have allocated a specific number of marks for each of the questions.

## Your response

Answer in short paragraphs where appropriate. I value brevity.

### Assessment Due Date

Week 10 Thursday (25 Jan 2018) 11:45 pm AEST

I expect students to present their assignment work on time. Please note that I will not consider any request for an extension of time unless you upload an application in the appropriate manner, supported by documentation and made prior to the due time/date. I will impose a penalty deduction of 5% per day for late work until the cut-off date, which is Saturday, 3 February 2018. If you do not submit your work by the cut-off date, I will award you a 'nil' mark.

### Return Date to Students

Week 12 Monday (5 Feb 2018)

Student satisfaction surveys in the past indicate student concerns when a unit coordinator does not provide assessment feedback quickly. Generally, I release the feedback and marks the day after the final cut-off date (that is, I provide feedback and marks 10 days after the due date).

### Weighting

25%

### Assessment Criteria

## Assessment criteria

I assess students on their ability to demonstrate thinking and writing skills, to comprehend the material, to process the material and to provide a critical analysis and logical discussion of the law. Students are required to communicate an answer clearly and logically and in a concise manner. I expect you to present your paper in a professional manner. Please paginate your paper and use correct spelling and grammar. You must appropriately reference and attribute the work of others.

### Fail

You will have shown evidence of the following:

- the written expression is poor and difficult to understand
- the answer is poorly organised
- referencing is generally inadequate
- lack of familiarity with the legislation and its application
- failure to identify and address the issues in the question

- reasoning and application demonstrated is poor

### **Pass**

You will have:

- made a conscientious attempt to address the topic and/or answer the question
- shown evidence of having done the required reading and of having understood the reading
- presented a reasonable argument to back up your conclusions
- demonstrated a reasonable level of spelling and grammatical usage
- used referencing but this may need improvement
- issues that may need to be identified and addressed in more depth

### **Credit**

You will have:

- addressed the topic and/or answered the question directly
- presented soundly based arguments and backed these up with reasons
- gone beyond description to analysis of key issues
- used the English language well
- shown evidence of reading widely
- demonstrated understanding of the reading
- used referencing that is satisfactory

### **Distinction**

You will have:

- met the above criteria for a credit
- demonstrated the attainment of a high degree of understanding of the concepts of the course
- demonstrated deep insight into the application of knowledge and skills acquired to complex theoretical and practical situations
- used referencing correctly
- made reference to all appropriate legislation

### **High Distinction**

You will have:

- met the above criteria for a distinction
- demonstrated the attainment of an outstanding level of achievement regarding the objectives of this course
- demonstrated an interesting and/or original approach/idea/argument
- demonstrated mastery of the relevant referencing system
- ensured conclusions are backed by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- ensured references are made to the appropriate legislation for particular issues

### **Referencing Style**

- [Australian Guide to Legal Citation, 3rd ed](#)

### **Submission**

Online

#### **Submission Instructions**

I will only accept online submission of your work. Upload your work in a Word document (not PDF). I expect students to present their assignment work on time. Take care with your submission. Avoid obvious mistakes, such as basic spelling and grammatical errors. Read your paper out aloud, word by word. It is slow however; it may be a productive exercise. Alternatively, or in addition, ask a friend to read your material. Generally, you should submit one document (even if the assessment is in two or more parts) and ensure that your name is included in the name of the saved document.

#### **Learning Outcomes Assessed**

- Describe the basic structure, institutions, key functions and processes of the Australian legal systems within which environmental law operates.
- Analyse major topics and key issues such as environmental property rights, access to and management of the environment, environmental protection measures and environmental litigation with reference to the relevant sources of legal authority..
- Identify and respond to the types of legal problems and issues likely to be embedded in commonly encountered environment-related activities.

- Explain the environmental law litigation process and alternative dispute resolution procedures.

#### **Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking

### **3 Take Home Paper**

#### **Assessment Type**

Written Assessment

#### **Task Description**

No Assessment Task Description

#### **Assessment Due Date**

Week 12 Friday (9 Feb 2018) 8:00 pm AEST

In the absence of an approved extension, there will be no opportunity to complete the task after the deadline. There will be no opportunity to apply for a late penalty of 5% per day and you will receive a mark of zero for this assessment task.

#### **Return Date to Students**

Normal examination conditions apply. The final online paper is not returned to students. General feedback is provided to the whole class in the form of an answer guide after the due date in accordance with University assessment policy.

#### **Weighting**

50%

#### **Assessment Criteria**

You will sit an online (take-home) paper between 5 PM and 8 PM on Friday, 9 February 2018. You will have access to the Internet to complete the task. You must complete the task at the designated time. You will not have an opportunity to present your work at a later time, unless you have an approved extension prior to the release of the take-home paper. If you do, you will be given an alternate take-home paper for completion. This is not an assessment where you will receive a deduction for late submission. If you do not submit your work by the cut-off time (8 PM) you will receive a nil mark. You should check your other subjects to ensure that there is not a clash in the date for your take-home paper.

#### **Referencing Style**

- [Australian Guide to Legal Citation, 3rd ed](#)

#### **Submission**

Online

#### **Submission Instructions**

Upload a single Word (not PDF) document to Moodle. No extensions are possible, as exam conditions apply.

#### **Learning Outcomes Assessed**

- Describe the basic structure, institutions, key functions and processes of the Australian legal systems within which environmental law operates.
- Analyse major topics and key issues such as environmental property rights, access to and management of the environment, environmental protection measures and environmental litigation with reference to the relevant sources of legal authority..
- Identify and respond to the types of legal problems and issues likely to be embedded in commonly encountered environment-related activities.
- Explain the environmental law litigation process and alternative dispute resolution procedures.

#### **Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking

## Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

### What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

### Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

### Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

### What can you do to act with integrity?



#### Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



#### Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



#### Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem