



# LAWS12067 *Environmental Law*

## Term 3 - 2019

Profile information current as at 21/09/2024 01:21 pm

All details in this unit profile for LAWS12067 have been officially approved by CQU University 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 - 2019

- Online

### 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, unit coordinator.

**Feedback**

Unit content and delivery.

**Recommendation**

Continue with the assessment regime and the general format of this unit. I updated the unit content to reflect the new planning regime introduced in Queensland, with an increased emphasis on issues associated with industry practice.

#### Feedback from Student feedback and self-evaluation.

**Feedback**

Interaction with students and between students using UCROO.

**Recommendation**

Continue using UCROO as the primary means of online discussion with students and between students.

## 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



### 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%	•	•	•							
3 - Written Assessment - 50%	•	•	•							

## Textbooks and Resources

### Textbooks

LAWS12067

#### Prescribed

##### **Environmental Law in Australia**

Edition: 10th (2019)

Authors: Gerry Bates

Lexis Nexis Butterworths

Sydney , NSW , Australia

ISBN: 9780409349115

Binding: Paperback

LAWS12067

#### Supplementary

##### **Planning in Queensland: Law, Policy and Practice**

Edition: 1st (2019)

Authors: Philippa England

The Federation Press

Sydney , NSW , Australia

ISBN: 9781760022068

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)
- Zoom capacity (web cam and microphone)

## Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 4th 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 - 11 Nov 2019

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

### Week 2 - 18 Nov 2019

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Law in Legal Context	Bates chapter 1	

### Week 3 - 25 Nov 2019

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

Bates chapter 1

#### Week 4 - 02 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
International Environmental Law and Federal Governance	Bates chapters 2-3	

#### Vacation Week - 09 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
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#### Week 5 - 16 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Legislation/Ecologically Sustainable Development	Bates chapter 4	

#### Week 6 - 23 Dec 2019

Module/Topic	Chapter	Events and Submissions/Topic
Strategic Environmental Planning and Assessment	Bates chapters 4-5	

#### Week 7 - 06 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Impact Assessment	Bates chapter 5	

#### Week 8 - 13 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Protection of Biodiversity, Climate Change and Indigenous Cultural Heritage	Bates chapters 6-10	<b>Case Note and Hypothetical Appeal</b> Due: Week 8 Thursday (16 Jan 2020) 11:45 pm AEST

#### Week 9 - 20 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Litigation - Civil Law	Bates chapter 12	

#### Week 10 - 27 Jan 2020

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Litigation - Criminal Law	Bates chapter 11	<b>Environmental Impact Case Study</b> Due: Week 10 Thursday (30 Jan 2020) 11:45 pm AEST

#### Week 11 - 03 Feb 2020

Module/Topic	Chapter	Events and Submissions/Topic
Challenging Environmental Decision- making /ADR	Bates chapter 12-13	

#### Week 12 - 10 Feb 2020

Module/Topic	Chapter	Events and Submissions/Topic
Review	Nil	Take Home Paper is released on Thursday, 13 February 2020 at 6:45 PM and is due on on Friday 14 February 2020 commencing by 11:45 PM AEST (Qld). NOTE: When making unit selections, please check the timing of the take home papers in your other subjects to cater for, or avoid, a conflict.

**Take Home Paper** Due: Week 12  
Friday (14 Feb 2020) 11:45 pm AEST

## 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 Planning and Environment Court (PEC) case about an appeal against a council decision, make comment about it and provide advice about a hypothetical appeal against the PEC decision. You should be able to answer the questions in less than 1250 words in total.

#### Required reading

Read the following case:

*Lipoma Pty Ltd & Ors v Redland City Council & Nerida Pty Ltd* [2019] QPEC 43

#### Assessment Due Date

Week 8 Thursday (16 Jan 2020) 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, up to the final cut-off date (Wednesday, 29 January 2020 at 11:45 PM AEST). Failure to upload work by the cut-off date will result in a nil mark.

#### Return Date to Students

Week 10 Thursday (30 Jan 2020)

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.

#### 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 clearly, logically and in a concise manner. I expect you to present your paper in a professional manner. Please paginate the paper and use correct spelling and grammar. You must appropriately reference and attribute the work of others.

#### High distinction standard

- You wrote your answer very well and expressed yourself clearly and concisely
- You presented your paper in a logical structure
- You demonstrated an appreciation and understanding of the issues involved
- You backed your answer by well-reasoned arguments demonstrating a detailed insight and analysis of issues
- You produced a sophisticated analysis from a variety of perspectives
- You demonstrated mastery of the AGLC referencing system

#### Distinction Standard

- Your answer is well written and expressed
- You produced a well-structured and logical paper
- You clearly identified, and appreciated, legal issues
- You referenced your material correctly
- You referred to appropriate case law, but your analysis and interpretation was not as detailed and reasoned as for high distinction standard

#### Credit Standard

- Your answer is generally well written and expressed
- Your paper is well structured and sequential
- Your coverage of issues is reasonably comprehensive with a good treatment and analysis
- Referencing is satisfactory
- Your analysis is not as detailed and reasoned as for distinction standard

## Pass Standard

- I could understand your paper
- You could better organise and structure your paper
- You could identify and address issues in more depth
- Your paper is confusing or incorrect
- Core facts/issues not clearly understood or identified
- You demonstrated some familiarity with legislation and case law
- Your conclusions reached are somewhat simplistic
- You included quantities of material of marginal relevance in your paper
- Referencing needs improvement
- Your analysis is not as detailed and reasoned as for credit standard

## Referencing Style

- [Australian Guide to Legal Citation, 4th 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.

### Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking

### 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.

## 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 (30 Jan 2020) 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, up to the final cut-off date (Wednesday, 12 February 2020 at 11:45 PM AEST). Failure to upload work by the cut-off date will result in a nil mark.

### **Return Date to Students**

Week 12 Thursday (13 Feb 2020)

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.

### **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 clearly, logically and in a concise manner. I expect you to present your paper in a professional manner. Please paginate the paper and use correct spelling and grammar. You must appropriately reference and attribute the work of others.

### **High distinction standard**

- You wrote your answer very well and expressed yourself clearly and concisely
- You presented your paper in a logical structure
- You demonstrated an appreciation and understanding of the issues involved
- You backed your answer by well-reasoned statements demonstrating a detailed insight and analysis of issues
- You produced a sophisticated analysis from a variety of perspectives
- You demonstrated mastery of the AGLC referencing system

### **Distinction Standard**

- Your answer is well written and expressed
- You produced a well-structured and logical paper
- You clearly identified, and appreciated, legal issues
- You referenced your material correctly
- You referred to appropriate material, but your analysis and interpretation was not as detailed and reasoned as for high distinction standard

### **Credit Standard**

- Your answer is generally well written and expressed
- Your paper is well structured and sequential
- Your coverage of issues is reasonably comprehensive with a good treatment and analysis
- Referencing is satisfactory
- Your analysis is not as detailed and reasoned as for distinction standard

### **Pass Standard**

- I could understand your paper
- You could better organise and structure your paper
- You could identify and address issues in more depth
- Your paper is confusing or incorrect
- Core facts/issues not clearly understood or identified
- You demonstrated some familiarity with process
- Your conclusions reached are somewhat simplistic
- You included quantities of material of marginal relevance in your paper
- Referencing needs improvement
- Your analysis is not as detailed and reasoned as for credit standard

### **Referencing Style**

- [Australian Guide to Legal Citation, 4th 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.

#### **Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking

#### **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.

### **3 Take Home Paper**

#### **Assessment Type**

Written Assessment

#### **Task Description**

Take Home Paper is released on Thursday, 13 February 2020 at 6:45 PM AEST (Qld).

#### **Assessment Due Date**

Week 12 Friday (14 Feb 2020) 11:45 pm AEST

No extensions allowed. You will be no opportunity to complete the task after the deadline. 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 (11:45 PM AEST Qld) you will receive a nil mark.

#### **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**

No extensions. NOTE: When making unit selections, please check the timing of the take home papers in your other subjects to cater for, or avoid, a conflict.

#### **Referencing Style**

- [Australian Guide to Legal Citation, 4th ed](#)

#### **Submission**

Online

#### **Submission Instructions**

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

#### **Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking

#### **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.

## 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