



LAWS12067 Environmental Law

Term 3 - 2021

Profile information current as at 07/05/2024 05:11 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

Pre-requisites: 24 credit points of law units

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 - 2021

- 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

Feedback

In term 3, 2019 for LAWS12067, I continued with a curriculum that has a major emphasis on the practical application of environmental law. While the text provides excellent academic content, greater emphasis could be placed on teaching environmental law by reference to materials which supplement the practical application component of the unit.

Recommendation

Change the textbook, to allow for greater reference to the practical application of environmental law.

Feedback from John Milburn

Feedback

At its next offering, with the introduction of a new textbook, the content and presentation of the unit should be remodelled.

Recommendation

Decrease the reading component of the unit and increase the practical skills component of the unit.

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

There are no required textbooks.

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

Judith Jensen Unit Coordinator
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Schedule

Week 1 - 08 Nov 2021

Module/Topic	Chapter	Events and Submissions/Topic
Introduction to Environmental Law	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 1	

Week 2 - 15 Nov 2021

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Law in Legal Context	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 1 and Chapter 3 sections 3.1 - 3.66	

Week 3 - 22 Nov 2021

Module/Topic	Chapter	Events and Submissions/Topic
Environment Protection and the Common Law	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 1	

Week 4 - 29 Nov 2021

Module/Topic	Chapter	Events and Submissions/Topic
International Environmental Law and Federal Governance	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapters 2 and 3	

Vacation week - 06 Dec 2021

Module/Topic	Chapter	Events and Submissions/Topic
Revision		

Week 5 - 13 Dec 2021

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Legislation/Ecologically Sustainable Development	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 1 sections 1.83 - 1.94 and Chapter 4 sections 4.14 - 4.40 and 4.57 - 4.74	Case Note and Research Due: Week 5 Monday (13 Dec 2021) 11:45 pm AEST

Week 6 - 20 Dec 2021

Module/Topic	Chapter	Events and Submissions/Topic
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Strategic Environmental Planning and Assessment

Gerry Bates, *Environmental Law in Australia* (LexisNexis Butterworths, 10th ed, 2019) Chapter 4 and Chapter 5 sections 5.29 - 5.41; 5.66 - 5.76 and 5.100 - 5.102

Vacation week - 27 Dec 2021

Module/Topic	Chapter	Events and Submissions/Topic
Revision		

Week 7 - 03 Jan 2022

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Impact Assessment	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 5 sections 5.103 - 5.116; 5.141 - 5.152 and 5.177 - 5.188	

Week 8 - 10 Jan 2022

Module/Topic	Chapter	Events and Submissions/Topic
Protection of Biodiversity, Climate Change and Indigenous Cultural Heritage	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 7 sections 7.1 - 7.15 and Chapter 10 sections 10.87 - 10.93 and Chapters 6,8,9 and 10.	Environmental Impact Case Study Due: Week 8 Thursday (13 Jan 2022) 11:45 pm AEST

Week 9 - 17 Jan 2022

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Litigation – Civil Law	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 12	

Week 10 - 24 Jan 2022

Module/Topic	Chapter	Events and Submissions/Topic
Environmental Litigation – Criminal Law	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 11	

Week 11 - 31 Jan 2022

Module/Topic	Chapter	Events and Submissions/Topic
Challenging Environmental Decision-making /ADR	Gerry Bates, <i>Environmental Law in Australia</i> (LexisNexis Butterworths, 10 th ed, 2019) Chapter 12 and Chapter 13 sections 13.1 - 13.24 and 13.32 - 13.76	

Week 12 - 07 Feb 2022

Module/Topic	Chapter	Events and Submissions/Topic
Review		

Exam Week - 14 Feb 2022

Module/Topic	Chapter	Events and Submissions/Topic

Assessment Tasks

1 Case Note and Research

Assessment Type
Written Assessment

Task Description

Overview of the objectives for this exercise

The assessment is made up of two tasks. For task 1, you are required to read an environmental law case and answer questions about your understanding of the facts, legal issues and reasoning applied by the court in its decision. For task 2, you are required to undertake research on why a particular environmental law case is significant in the development of environmental law.

Full details of the assessment will be provided on the Moodle site early in the term.

Assessment Due Date

Week 5 Monday (13 Dec 2021) 11:45 pm AEST

Return Date to Students

Week 6 Friday (24 Dec 2021)

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

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

Assessment 2 is made up of two tasks. For task 1, you are required to consider a case study about a project involving an environmental impact assessment application and answer questions to demonstrate your understanding of the relevant environmental impact assessment regulatory framework. For task 2, you are required to prepare a YouTube video presentation in which you will discuss an environmental legal issue.

Full details of the tasks will be provided on the Moodle site early in the term.

Assessment Due Date

Week 8 Thursday (13 Jan 2022) 11:45 pm AEST

Return Date to Students

Week 10 Thursday (27 Jan 2022)

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

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 Examination

Assessment Type

Written Assessment

Task Description

The take-home examination will be set to take place in or around the standard examination week at the end of term. You will be advised of the exact date and time once the timetable for all law exams is published, which will be towards the end of the teaching weeks. The paper will be available during a specific time period and must be submitted (online via Moodle as an MS Word document) before the end of that time period. Like normal examinations, no extensions of time are allowed for a take-home examination.

The examination will include both problems and theoretical questions and will be designed to assess your learning of the unit as a whole. You will be given a little more information about the format of the examination on the Moodle site during the term.

Assessment Due Date

Return Date to Students

Normal examination conditions apply. Marks will only be available on certification of grades.

Weighting

50%

Assessment Criteria

The following criteria will be relevant to the take-home examination:

- Knowledge of law, especially core concepts
- Where research is required, effectiveness of research in acquiring such knowledge

- Correctness of referencing to the standard required by the assessment (This will be specified in the guidance for the exam)
- Analysis and critical thinking, including application of law to facts and/or projecting possible fact scenarios arising from the law
- Logical and coherent presentation of arguments/analysis with appropriate structure
- Attention to the requirements of the question, including addressing the questions as specified and avoiding irrelevant diversions or regurgitation of law without any connection with the question or the analysis.

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.

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