

LAWS6020: Environmental Law

Newcastle City Precinct
Semester 1 - 2024



THE UNIVERSITY OF
NEWCASTLE
AUSTRALIA

OVERVIEW

Course Description This course provides students with knowledge of the legal framework relating to protection and use of the natural environment. This framework has arisen from government policy formulation and the emergence of community values concerning the preservation, development and use of natural resources. Special attention will be given to the understanding of key pieces of environmental assessment and approval legislation at a NSW and Commonwealth level and the role of common law principles relating to degradation, protection and use of the natural environment. The course will draw on relevant interdisciplinary material to complement legal analysis of environmental problems. Students will also learn about the domestic implementation of international obligations in the Australian context. Students will have opportunities to engage with topical and emerging issues in environmental law and policy at various points in the course.

Skills Focus This course offers students the opportunity to develop the following skills:

- Advanced Statutory Interpretation;
- Advanced Critical Thinking;
- Policy Analysis and Law Reform.

Assumed Knowledge For B Laws (Hons)/Diploma of Legal Practice, JD, JD/GDLP, LLW and MEL candidates with prior formal study in law: prior completion of foundational studies in law (including Legal System and Method, Torts, Criminal Law and/or Contracts, or other equivalent courses).

However, please note that this course is designed to be accessible to MEL candidates without prior formal study in law (but who have completed either prior study in a related field and/or relevant work experience).

Contact Hours **Newcastle City Precinct**
3 hour(s) per Week for Full Term

These three hours will be allocated as follows:

- 2 hours face to face Seminar (as per University website)
- 1 hour of additional activities (which will be delivered online). For the first 9 weeks of the semester these activities will comprise lecture recordings that students are expected to view prior to attending seminars. Other approaches may be utilised in weeks 10-12 of the semester.

Compulsory Attendance Attendance at all classes (seminars and workshops) will be monitored and records maintained by the Course Coordinator. In order to satisfy the "Compulsory Attendance" requirement, students must be present at a minimum of 80% of scheduled classes as spelled out in the course outline, unless they are able to demonstrate that their absence falls within the Adverse

COURSE OUTLINE

Circumstances policy. Unless this requirement is met, despite marks awarded in other assessment items, the student will receive a zero mark and a CF (component fail) grade for the course.

Please note that if you miss more than 2 seminars for reasons that fall within the University's adverse circumstances policy you may be required to complete additional assessment items to ensure that you have completed the required volume of learning for this course.

The weekly seminar class may be recorded and made available to students for revision and independent study purposes.

**Unit Weighting
Workload**

10
Students are required to spend on average 120-140 hours of effort (contact and non-contact) including assessments per 10 unit course.

CONTACTS

Course Coordinator

Newcastle City Precinct
Dr Joseph Wenta
Joseph.Wenta@newcastle.edu.au
(02) 4921 6218
Consultation: Fridays 10am-12 midday (by appointment where possible)

Teaching Staff

Other teaching staff will be advised on the course Canvas site (where applicable).

School Office

Newcastle Law School
5th Floor
NU Space
409 Hunter Street
Newcastle
Law-School@newcastle.edu.au
+61 2 4921 8666

SYLLABUS

Course Content

The following topics will be covered in this course:

1. Introduction to Environmental Law and Policy;
2. International Environmental Law and its implementation in the Australian context;
3. Environmental Assessment and Approval Processes (at the Commonwealth level and in New South Wales);
4. Climate change and environmental law;
5. Cultural heritage protection and the engagement and participation of First Nations peoples in environmental decision-making;
6. Select topics and contemporary issues in NSW and Australian environmental law (eg biodiversity conservation, coastal management).

**Course Learning
Outcomes**

On successful completion of this course, students will be able to:

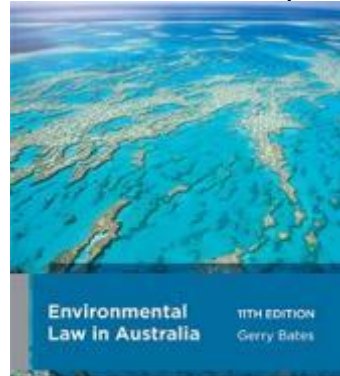
1. Demonstrate advanced and critical understanding of the role of environmental law in regulating the degradation, protection and use of the natural and built environment in Australia.
2. Apply specialised knowledge of key pieces of environmental assessment and approval legislation at NSW and Commonwealth levels.
3. Analyse critically, reflect on and evaluate the socio-political context of environmental law and policy in the Australian context.
4. Apply specialised knowledge to critically evaluate key elements of major international legal regimes (eg climate change, ozone depletion).
5. Demonstrate autonomy and expert judgement in carrying out research of specialised

- legal and policy issues relating to environmental regulation.
6. Prepare and present written arguments and analysis for legal and related professional audiences.

Course Materials

The Prescribed Textbook for this course is:

- **Gerry Bates *Environmental Law in Australia* (Lexis Nexis, 11th ed, 2023).**



The book can be purchased from the [School Locker](#) (either online or at the retail store located at the University's Callaghan Campus), online through [Lexis Nexis](#) or other online providers. Because there is no formal exam in this course, students are welcome to purchase and use the eBook version of the textbook if that is better suited to your study pattern and learning style).

Other Recommended Textbooks:

The textbooks below may be adopted as a supplement to Bates:

- Rosemary Lyster et al, *Environmental and Planning Law in New South Wales*, (Federation Press, 5th ed, 2021);
- Lee Godden, Jacqueline Peel and Jan McDonald, *Environmental Law* (Oxford, 2nd ed, 2018);
- Peter Williams (ed), *The Environmental Law Handbook* (Thomson Reuters, 6th ed, 2016).

Other required and recommended readings are prescribed on Canvas and available via the "Course Readings" component of that site.

Journals:

There are also several excellent journals available electronically via the library that will be useful for background reading and research during this course:

- *Asia Pacific Journal of Environmental Law*
- *Environmental and Planning Law Journal* (Australian domestic focus)
- *UNSW Law Journal* (Australian, often carries general environmental law articles)
- *Ecology Law Quarterly* (US journal, general and international articles)
- *Review of European Community and International Environmental Law* (European journal, international law focus)
- *Journal of Environmental Law* (UK journal, wide coverage of European, Australian and international issues)
- *Transnational Environmental Law* (UK based journal, wider coverage of European, Australian, transnational and international issues)
- *International Environmental Agreements: Politics, Law and Economics* (European journal, international law focus).

SCHEDULE

Week	Week Begins	Topic	Learning Activity	Assessment Due
1	26 February	Introduction to Environmental Law and Policy	Readings, online lectures and seminar activities.	
2	4 March	Development of International Environmental Law	As above.	
3	11 March	Environmental Governance in Australia	As above.	
4	18 March	Commonwealth EAA Processes (Part 1)	As above.	
*5	25 March	Commonwealth EAA Processes (Part 2)	As above.	
6	1 April	NSW EAA Processes (Part 1)	As above.	AT1a OR AT1b due by 9pm Tuesday 2 April ⁺
7	8 April	NSW EAA Processes (Part 2)	As above.	
Mid-Semester Recess				
Mid-Semester Recess				
8	29 April	Heritage Protection and Indigenous Participation in Environmental Governance	As above.	
9	6 May	Climate Change and Environmental Law	As above.	AT2 due by 9pm Wednesday 8 May
10	13 May	Current Issue 1: (topic TBC)	As above.	
11	20 May	Current Issue 2: (topic TBC)	As above.	
12	27 May	Current Issue 3: (topic TBC)	As above.	
13	3 June	No Class		AT3 due by 9pm Friday 7 June 2024
Examination Period				
Examination Period				
<p><i>* Please note that Friday 29 March 2024 (Good Friday) is a public holiday. No seminar will take place on that day. I will advise alternative arrangements for our week 5 seminar time in due course.</i></p> <p><i>+ Note also that students who choose Assessment Pathway B below are not required to complete either AT1a Short Writing Task or AT1b Online Test (because AT2 Problem Solving Task and AT3 Research Essay will have increased weighting).</i></p>				

ASSESSMENTS

This course has two assessment pathways. Students have the option of choosing either Assessment Pathway A comprising 3 assessment items, or Assessment Pathway B requiring the completion of 2 assessment items. Each assessment item is described in more detail in the sections below.

Assessment Pathway A					
	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1a	Short Writing Task OR	9pm Tuesday 2 April 2024	Individual	20%	1, 3, 5, 6
1b	Online Test AND	9pm Tuesday 2 April 2024	Individual	20%	1, 2, 3, 4
2	Written Assignment: Problem Solving Task AND	9pm Wednesday 8 May 2024	Individual	40%	1, 2, 4, 5, 6
3	Written Assignment: Research Essay	9pm Friday 7 June 2024	Individual	40%	1, 3, 5, 6

Assessment Pathway B					
	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1a	N/A	N/A		N/A	
1b	N/A	N/A		N/A	
2	Written Assignment: Problem Solving Task AND	9pm Wednesday 8 May 2024	Individual	50%	1, 2, 4, 5, 6
3	Written Assignment: Research Essay	9pm Friday 7 June 2024	Individual	50%	1, 3, 5, 6

Late Submissions The mark for an assessment item submitted after the designated time on the due date, without an approved extension of time, will be reduced by 10% of the possible maximum mark for that assessment item for each day or part day that the assessment item is late. Note: this applies equally to week and weekend days.

Adverse Circumstances All assessment items in this course are subject to the University's adverse circumstances policy and procedure. In particular, this statement constitutes notice under clause 4(b) of the [Adverse Circumstances Affecting Assessment Items Procedure](#) in respect of Assessments 1a (Short Writing Task) and 1b (Online Test).

Final Results To ensure that grades are fair both within and between courses and cohorts, the School of Law and Justice has a rigorous policy of moderating and reviewing assessment. The School Assessment Board (SAB) reviews all final grades before they are released to students, and the SAB process may result in the overall marks of a class being moved up or down by a specific amount, thus impacting individual marks. This is consistent with grading practices in other Law Schools across the country and important to ensure the integrity of assessment. This means that the final grade you are awarded may not be the sum of marks you have received in all assessments.

Assessment 1a – Short Writing Task

Assessment Type Written Assignment
Description This task requires students to complete a short written piece relating to the material covered in weeks 1 to 4 of the course. This task will allow students to demonstrate their developing knowledge of the environmental law and policy framework, including its relevance to significant and contemporary issues in environmental law, policy and management. Further information will be made available on the course Canvas site in week 1 of the semester.

Students have the option of attempting the Online Test assessment item 1b or

choosing Assessment Pathway B instead of completing the Short Writing Task assessment. This flexibility allows you to choose an assessment item that best reflects your interests and strengths and affords you the best chance to achieve at a high level in this course.

Weighting	20%(Assessment Pathway A only)
Due Date	9pm Tuesday 2 April 2024
Submission Method	Online via course Canvas site.
Assessment Criteria	As per Assignment Instructions (to be published on the course Canvas site).
Return Method	Online via course Canvas site.
Feedback Provided	Written comments on return of assessment item to students.

OR

Assessment 1b – Online Test

Assessment Type	Online
Description	This task requires students to complete a two (2) hour online test comprising a number of multiple choice, “matching”, “fill in the blank” and short answer questions relating to the material covered in weeks 1 to 4 of the course. This task will allow students to demonstrate their understanding of the framework and principles that inform the operation and implementation of environmental law in NSW and Australia, and foundational knowledge of Commonwealth environmental assessment and approval processes.

The Online Test will become available to students from 9am Thursday 28 March 2024, and will remain available until 9pm Tuesday 2 April 2024. Students will have two (2) hours from the time at which they commence the Test activities to complete the relevant activities and submit their responses. For example, a student who commences the Online Test at 11.05am on Saturday 30 March 2024 will have until 1.05pm that same day to submit their responses to the course Canvas site.

Further information will be provided to students by 9am Friday 15 March 2024.

Students have the option of attempting the Short Writing Task assessment item 1a or choosing Assessment Pathway B instead of completing the Online Test assessment item. This flexibility allows you to choose an assessment item that best reflects your interests and strengths and affords you the best chance to achieve at a high level in this course.

Weighting	20% (Assessment Pathway A only)
Due Date	9pm Tuesday 2 April 2024
Submission Method	Online via course Canvas site.
Assessment Criteria	As per Assignment Instructions (to be published on the course Canvas site).
Return Method	Online via course Canvas site.
Feedback Provided	Student scores for the multiple choice (and similar) component will be provided after all students have completed the relevant aspects of the online test. Scores and general feedback for the short answer component will be provided when those responses have been marked.

AND

Assessment 2 – Problem Solving Task

Assessment Type	Written Assignment
Description	This assessment task requires students to prepare a written response to a hypothetical problem scenario. Focusing largely on the material covered in weeks 4 to 7 of the course, the task will provide students with the opportunity to demonstrate their knowledge and understanding of key pieces of environmental assessment and approval laws, and their legal reasoning skills by applying the law to a hypothetical problem scenario.

Weighting	40% (Assessment Pathway A); 50% (Assessment Pathway B)
Due Date	9pm Wednesday 8 May 2024
Submission Method	Online via course Canvas site.
Assessment Criteria	As per Assignment Instructions (to be published on the course Canvas site).
Return Method	Online via course Canvas site.

Feedback Provided	Written comments on return of assessment item to students.
Additional Note	<i>If students choose Assessment Pathway B</i> they will be required to address additional legal issues and factual material in this task. Those additional issues/facts will be clearly labelled in the relevant assignment documentation. Students will also be allowed an increased number of words in which to complete their problem solving task. Precise details will be advised when instructions for the AT2 Problem Solving Task are published on the course Canvas site.

AND

Assessment 3 – Research Essay

Assessment Type	Written Assignment
Description	This assessment task requires students to prepare a research essay that addresses a contemporary issue in environmental law, policy and/or management. A range of suggested topics will be provided by the Course Coordinator, but students will also have the opportunity to choose a topic of their own interest (subject to Course Coordinator endorsement).
Weighting	40% (Assessment Pathway A); 50% (Assessment Pathway B)
Due Date	9pm Friday 7 June 2024
Submission Method	Online via course Canvas site.
Assessment Criteria	As per Assignment Instructions (to be published on the course Canvas site).
Return Method	As this is the final assessment item in the course, papers will only be returned on student request after the Fully Graded Date for Semester 1, 2024.
Feedback Provided	Feedback will only be provided on request after the Fully Graded Date for Semester 1, 2024.
Additional Note	<i>If students choose Assessment Pathway B</i> they will be required to address a research essay question of appropriate complexity (eg by raising complex legal and/or policy issues, and/or by requiring additional breadth/depth of legal research) in this task. Students will also be allowed an increased number of words in which to complete their research essay. Precise details will be advised when instructions for the AT3 Research Essay are published on the course Canvas site.

ADDITIONAL INFORMATION

Wellbeing Contacts	There are a variety of pressures on law students, and being able to perform well academically under pressure, without excessive stress will contribute to enhanced outcomes in wellbeing and academic results. Reach out to support services and learn ways to maintain your mental health, deal with stress and common issues like perfectionism, procrastination and anxiety.
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To access UON support:

<https://www.newcastle.edu.au/current-students/support/personal>

Ph: 4921 6622 or email: counselling@newcastle.edu.au

For support outside of office hours call the University Crisis Support Line on 1300 653 007 or for chat SMS 0488 884 165.

For immediate support contact Lifeline 24/7 on 13 14 11 or <https://www.lifeline.org.au/>

Grading Scheme

This course is graded as follows:

Range of Marks	Grade	Description
85-100	High Distinction (HD)	Outstanding standard indicating comprehensive knowledge and understanding of the relevant materials; demonstration of an outstanding level of academic achievement; mastery of skills*; and achievement of all assessment objectives.
75-84	Distinction (D)	Excellent standard indicating a very high level of knowledge and understanding of the relevant materials; demonstration of a very high level of academic ability; sound development of skills*; and achievement of all assessment objectives.
65-74	Credit (C)	Good standard indicating a high level of knowledge and understanding of the relevant materials; demonstration of a high level of academic achievement; reasonable development of skills*; and achievement of all learning outcomes.
50-64	Pass	Satisfactory standard indicating an adequate knowledge and

	(P)	understanding of the relevant materials; demonstration of an adequate level of academic achievement; satisfactory development of skills*; and achievement of all learning outcomes.
0-49	Fail (FF)	Failure to satisfactorily achieve learning outcomes. If all compulsory course components are not completed the mark will be zero. A fail grade may also be awarded following disciplinary action.

*Skills are those identified for the purposes of assessment task(s).

Communication Methods

Communication methods used in this course include:

- Class activities
- Email
- E-meetings (via course Canvas site)
- Face to face discussion (especially during scheduled consultation times)

Course Evaluation

Each year feedback is sought from students and other stakeholders about the courses offered in the University for the purposes of identifying areas of excellence and potential improvement.

I have really appreciated thoughtful and forthright feedback from students who have completed previous offerings of this course. As a result of that feedback, my own reflection and developments at the University level, the following adjustments have been made for 2024:

- ***Assessment options have been refined such that students have some flexibility in determining the skills developed through assessment and the weighting of tasks;***
- ***The sequence of topics has been adjusted to align with the new edition of the Bates textbook and the assessment focus for 2024;***
- ***Learning activities directed specifically to indigenous perspectives on, and participation in, environmental governance have been added to the course content;***
- ***Some in-class learning activities have been modified to reflect key developments in environmental law in the past 12 months, and to ensure maximum opportunity for student participation and engagement in seminars;***
- ***I will seek input on the “Current Issues” component to tailor those learning activities to topics and issues of interest to you in 2024 (where possible);***
- ***Aspects of the course Canvas site have been further refined to make it as easy as possible for students to access relevant resources and information.***

Oral Interviews (Vivas)

After you have submitted an assessment item in this course you may be required to take part in a Viva (also called an oral exam) for quality assurance purposes. A Viva will consist of an interview with one or perhaps two staff and will last approximately 10 minutes. During this time, you will be asked questions about the answers you have provided in the relevant assessment item. For instance, you may be asked about the workings or rationale behind the way you structured an assessment response or how you answered a couple of questions from the online test. This will help us verify your knowledge of a topic, demonstrate that it is your own work and provide informative feedback to staff to help them make enhancements to future examination/assessment papers.

Academic Misconduct

All students are required to meet the academic integrity standards of the University. These standards reinforce the importance of integrity and honesty in an academic environment. Academic Integrity policies apply to all students of the University in all modes of study and in all locations. For the Student Academic Integrity Policy, refer to <https://policies.newcastle.edu.au/document/view-current.php?id=35>.

Adverse Circumstances

The University acknowledges the right of students to seek consideration for the impact of allowable adverse circumstances that may affect their performance in assessment item(s). Applications for special consideration due to adverse circumstances will be made using the online Adverse Circumstances system where:

1. the assessment item is a major assessment item; or
2. the assessment item is a minor assessment item and the Course Co-ordinator has

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- specified in the Course Outline that students may apply the online Adverse Circumstances system;
3. you are requesting a change of placement; or
 4. the course has a compulsory attendance requirement.

Before applying you must refer to the Adverse Circumstance Affecting Assessment Items Procedure available at:

<https://policies.newcastle.edu.au/document/view-current.php?id=236>

Important Policy Information

The 'HELP for Students' tab in UoNline contains important information that all students should be familiar with, including various systems, policies and procedures.

This course outline was approved by the Head of School. No alteration of this course outline is permitted without Head of School approval. If a change is approved, students will be notified and an amended course outline will be provided in the same manner as the original.

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