

ANU COLLEGE OF LAW
GRADUATE PROGRAM IN LAW

MEANS OF ASSESSMENT
ENVIRONMENTAL LITIGATION
LAWS8187 CLASS 7561

6-8 July 2011

Approved: 14 June 2011

This means of assessment has been checked by the Director, Postgraduate Coursework Program, to ensure that it complies with the College's postgraduate assessment policy. In accordance with the University's Principles for Determination of Assessment and for Consultation, the course lecturer will discuss with and explain to the students the assessment system at the beginning of the course.

Students must ensure that they rely on the latest means of assessment.

OVERVIEW OF ASSESSMENT

The subject is to be assessed by:

1. A short essay summarising in plain English for a lay audience the jurisdiction of the main environmental courts and tribunals and the appellate structure for civil, criminal, State/Territory and federal proceedings in the student's jurisdiction (of no more than 800 words in length) (10%).
2. A practical exercise involving advising the Commonwealth Environment Minister on the discretion to prosecute (1,000-2,000 words in length) and drafting the relevant documents to initiate a criminal prosecution under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (30%).
3. A research paper (of no more than 4,800 words in length) on a topic of the student's choice relevant to Environmental Litigation (60%).

Note: All of the assessment is to be submitted on WATTLE in PDF¹ format. The requirement to submit documents in PDF is to ensure students can do this as it is a very useful, practical skill to have for correspondence with solicitors and other parties in litigation.

¹ Freeware allowing you to convert Word documents to PDF is available at <http://www.primopdf.com>.

DETAILS OF ASSESSMENT

1. Short essay (10%)

DUE DATE: Friday 22 July 2011 (2 weeks after completion of course).

Write a short essay summarising in plain English for a lay audience the jurisdiction of the main environmental courts and tribunals and the appellate structure for civil, criminal, State/Territory and federal proceedings in your jurisdiction (of no more than 800 words in length). Include a diagram to illustrate the court hierarchy.

2. Practical exercise (30%)

DUE DATE: Friday 5 August 2011 (4 weeks after completion of course).

You are a lawyer in the legal section of the Department of Sustainability, Environment, Water, Population and Communities. Assume the findings of fact concerning clearing of a Ramsar wetland in *Minister for the Environment & Heritage v Greentree (No 2)* (2004) 138 FCR 198; [2004] FCA 741 and *Minister for the Environment & Heritage v Greentree (No 3)* (2004) 136 LGERA 89; [2004] FCA 1317 were not a court judgment but were instead contained in a brief of evidence prepared by the Department's enforcement officers. You are instructed to:

- (a) Prepare a Departmental internal memorandum, of 1,000-2,000 words in length, to advise the Minister on whether the matter should be referred to the Commonwealth Director of Public Prosecutions (DPP) for consideration of initiating criminal proceedings under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) against Auen Grain Pty Ltd and its director, Ronald Greentree. Also consider the aerial photographs, satellite images and pictures of the clearing available at <http://www.envlaw.com.au/greentree.html>. You should summarise the facts briefly in your advice but keep this section short. Apply the Department's Compliance and Enforcement Policy (approved 1 December 2009) but assume no limitation periods or issues concerning delay apply for initiating proceedings. Advise the Minister, in particular, in relation to the appropriate choice between civil proceedings and criminal prosecution.
- (b) Draft the relevant court documents to initiate a criminal prosecution in the case against the company and its director. You may use either the forms relevant to NSW (where the facts of the case occurred) or the forms used in your own State or Territory.

3. Research paper (60%)

DUE DATE: Friday 2 September 2011 (8 weeks after completion of course).

Write a research paper, of no more than 4,800 words, relevant to the subject of Environmental Litigation and the student's interests agreed with the lecturer.

How to submit your assessment

You must submit assessments through the WATTLE course page <http://wattle.anu.edu.au/>

Please ensure the first page of your assignment is the cover sheet available at: <http://law.anu.edu.au/servicesoffice/> (i.e. your assignment must be **ONE** document).

Formatting and referencing styles

Assessment must be in 12-point Times New Roman font, single-spaced, formatted for A4-size paper, and with pages numbered.

You should use a standard form of citation. For the research paper, suitable standard forms of citation include the:

- Australian Guide to Legal Citation available at <http://mulr.law.unimelb.edu.au/files/aglcdl.pdf>; or
- style guide for the *Environmental and Planning Law Journal*, available at <http://www.thomsonreuters.com.au/support/pdf/authorsupport/ENVIRONMENTAL%20AND%20PLANNING%20LAW%20JOURNAL.pdf> (Nb. This style uses footnotes and does not include a list of references at the end of the paper).

Word length

The word lengths are guides only. There is no direct penalty for being under or over the assigned lengths but marks are awarded based on the expectations of a work within the assigned word lengths.

Extensions

The College's policy on extensions for written work is set out at <http://law.anu.edu.au/Postgraduate/policies/Coursework/extensionpolicy.asp>.

It is a mark of professionalism to be on time.

Marking

Marks will be available 4 weeks after submission but earlier if possible (the lecturer has a 3-day trial in late July and large trial commencing 22 August 2011, which may affect marking). Students will receive early feedback on their research paper topic when it is approved by the lecturer and are welcome to contact the lecturer if they are uncertain about any aspect of the assessment prior to submission.

Plagiarism

All work that is not your own should be properly referenced. If in doubt, refer to the University's Code of Practice on Academic Honesty in Teaching and Learning, <http://info.anu.edu.au/Policies/DVC/Policies/Code Practice Student Academic Honesty.asp>

Marking criteria

Consistent with the Marking Guidelines (Graduate Program in Law), the following marking criteria will be applied to the assessment:

See <http://law.anu.edu.au/Postgraduate/policies/Coursework/markingguidelines.asp>

Criteria for the Award of Grades:			
High Distinction	HD	80+	Work of exceptional quality, demonstrating complete and comprehensive understanding of the subject matter, mastery of relevant skills, sophisticated or original critical and conceptual analysis, or outstanding quality in clarity, precision and presentation of work.
Distinction	D	70 - 79	Work of superior quality, demonstrating a thorough knowledge and understanding of the subject matter, proficiency in relevant skills, or analytical and conceptual ability of a high order.
Credit	CR	60 - 69	Work of good quality, displaying an understanding of the subject matter and a grasp of relevant skills that is above average.
Pass	P	50 - 59	Work of satisfactory quality, which displays an adequate understanding of most of the subject matter and a sufficient grasp of relevant skills.
Fail	N	0 - 49	Work which is incomplete or displays an inadequate understanding of the subject matter or an inadequate grasp of relevant skills.

Approved by: Don Rothwell

Date: 14 June 2011

Posted by: Edwina Breingan

Date: 14 June 2011