



T.C. Beirne School of Law

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CRICOS No. 00025B

## COURSE PROFILE

### LAWS7866 – Law of the Sea

#### St Lucia Campus

Semester 2, 2005 – Intensive (Monday 26 September – Thursday 29 September 2005)

**Units:** #2  
**Restricted to:** GCApplaw; GDipAppLaw; MAppLaw; GDipLaw; LLM; LLM(Adv)  
**Incompatibles:** LA894  
**Contact hours:** This is a 4 day intensive course with classes from 9am to 5pm each day

#### Contact Information

Description	Name	Office	Telephone	Email
Coordinator	Mr Vincent P. Bantz	Room361 GPN3 (39A)	+61 7 3365 2356	<a href="mailto:v.bantz@law.uq.edu.au">v.bantz@law.uq.edu.au</a>

#### Consultation

Vincent P. Bantz By arrangement – preferably by email

A number of Guest Lecturers with special expertise will also present lectures. They include Dr Michael White QC, Dr Anthony Cassimatis, Ms Rachel Baird from the Law School and experts from the Department of Foreign Affairs.

#### Student and staff communication

When students request that a staff member contact them, they must provide contact details other than mobile telephone numbers except where this is absolutely unavoidable. While the use of email is acceptable for brief communications with staff members, students should not expect detailed email responses to questions on issues of law from academic staff. These matters should be raised in tutorial sessions or in staff consultation times during the semester and in the revision period prior to examinations.

#### Please Note

This is one of a series of courses in marine law, governance and policy offered by the Marine and Shipping Law Unit. For details of the other courses see the MASLU web site [www.law.uq.edu.au/maslu](http://www.law.uq.edu.au/maslu), or contact Dr Michael White- email: [m.white@law.uq.edu.au](mailto:m.white@law.uq.edu.au).

## COURSE DETAILS

### Overview

This course aims to introduce students to the rules regulating the principal uses of the oceans. The core content of the course includes a history of the development of the law of the sea, the sources of the contemporary law of the sea, leading to the adoption of the United Nations Convention on the Law of the Sea and the legal regime of various maritime zones. Also included is a survey of the Australian National Oceans Policy and particular policy and regulation aspects of special areas.

The subject is an advantage to those students who wish to pursue post-graduate studies at a level that will enable them to practise, advise, regulate, research, write or lecture on these topics. It is an aim of the course that students should gain an understanding of the international law and policy affecting the oceans. Note that this is the face-to-face course.

- The course is open to Masters students who wish to include the course as part of their accreditation for a Masters degree. Reciprocal accreditation is usually possible with any equivalent university. The course is also open as part of the Executive Education and Professional Development (EE & PD) (the former Continuing Education Program-CEP) for persons who wish professional development. (Naturally, no dissertation is required). The course is open to graduates of a recognised university, in any discipline.
- It is recommended for persons in practice, government, quasi-government, regulatory roles, policy and planning roles.
- Attendance at the course is a prerequisite for assessment for degree accreditation.
- The costs are the usual costs for a course in the Masters Program and for the Executive Education.

#### *Venue:*

The course is conducted at the T.C. Beirne School of Law, St Lucia campus, University of Queensland, Brisbane. Registrants of the course who wish accommodation may contact the Course Coordinator for reference to one of the UQ residential Colleges or similar for a convenient place to stay during the course.

There will be one class in this course. The sessions are set out below

### Workload

All registrants need to attend in person for the duration of the course. Students then need to research and write a dissertation, see under.

### Graduate attributes developed

Attribute	How developed
In-depth knowledge of field of study	Class attendance and participation, independent study, discussion with fellow students and Course Presenters, written dissertation
Effective communication	Class participation, discussion with fellow students and Course Presenters, written dissertation
Independence and creativity	Independent study, research, written dissertation
Critical judgement	Class participation, independent study, discussion with fellow students,

	written dissertation
Ethical and social understanding	Class attendance and participation, discussion with Course Presenters and fellow students

## Disability support

Any student with a disability who may require alternative academic arrangements in the course is encouraged to seek advice at the commencement of the semester from a Disability Adviser at Student Support Services <http://www.sss.uq.edu.au/>. The University Health Service can arrange advice and assistance on professional accreditation/registration issues that might arise as a result of alternative arrangements.

## TEACHING & LEARNING

### Approach to learning

To study each Topic, you should:

- work independently through the learning guide, referring to the prescribed texts;
- prepare for, attend and participate in classes.

### Learning guide

The learning guide will be available in hard copy at the commencement of the course. (Preliminary reading may be done on the main texts set out below.)

### Course Blackboard website

As this is a short intensive course it is not proposed to activate the Course Website.

### Daily Program

The course is a 4 day intensive which commences at 0900 on Monday 26th September 2005. It is programmed on the basis of a daily 5 x 1 1/4 hr lectures. Session 1 0900-1015; Morning tea: 1015-1030; Session 2 1030-1145; Session 3 1145-1300; Lunch: 1300-1400; Session 4 1400-1515; Afternoon tea 1515-1530; Session 5 1530-1700. The course concludes on Thursday 29th September at 1700.

Day	Time	Topic
1	9am – 5pm	<ol style="list-style-type: none"> <li>1. Introduction to International Law</li> <li>2. The Law of the Sea: Historical Developments</li> <li>3. The First and Second Conferences on the Law of the Sea</li> <li>4. The Third Conference of the Law of the Sea</li> <li>5. The UN Convention on the Law of the Sea: Structure and Purpose</li> </ol>
2	9am – 5pm	<ol style="list-style-type: none"> <li>1. Baselines and Regime of Internal Waters</li> <li>2. The Territorial Sea and Contiguous Zone</li> <li>3. International Straits</li> <li>4. Archipelagic States</li> <li>5. The Exclusive Economic Zone</li> </ol>
3	9am – 5pm	<ol style="list-style-type: none"> <li>1. The Continental Shelf. Principles of Maritime Delimitation</li> </ol>

		<ol style="list-style-type: none"> <li>2. The Area</li> <li>3. The High Seas</li> <li>4. Underwater Cultural Heritage</li> <li>5. Syndicate Problem</li> </ol>
4	9am – 5pm	<ol style="list-style-type: none"> <li>1. Dispute Settlement</li> <li>2. Australian Maritime Boundaries</li> <li>3. The Timor Sea Treaty</li> <li>4. Special Areas</li> <li>5. Concluding problem</li> </ol>

## Recommended texts

Birnie, Patricia 2<sup>nd</sup> edition, International Law & The Environment, (2001) Oxford University Press.

Blay, S. et al, 2<sup>nd</sup> ed, (2005) Public International Law: An Australian perspective, Oxford University Press.

Brown, E D, (1994) The International Law of the Sea, Dartmouth Publishing.

Brown, E.D. (2001) Sea-Bed Energy and Minerals: The International Legal Regime Vol. 2 & 3 Martinus Nijhoff Publishers.

Bucholz, H Law of the Sea Zones in the Pacific Ocean, (1987) Institute of Southeast Asian Studies

Cassese, Antonio, 2<sup>nd</sup> edition, (2001) International Law, Oxford University Press.

Charney, J.I. and Alexander, L.M. International Maritime Boundaries (Vol 1), 1992, (Vol 2), 1994, (Vol 3), 1998, Kluwer Law International.

Chiu, H. (1997) The International Law of the Sea – cases, documents, readings Supplement 1, Four Courts Press, Dublin.

Churchill, R.R. and Lowe, A.V. (1999) The Law of the Sea, 3<sup>rd</sup> edition, Manchester University Press.

Clingan, T A (1994) The Law of the Sea: ocean law and policy, San Francisco, Austin & Winfield.

Crawford, J and Rothwell, D.R. (1994) The Law of the Sea in the Asian Pacific Region, Kluwer Law International, (Martinus Nijhoff).

Dupuy, R.J. and Vignes, D. (1990, 92) A Handbook on the New Law of the Sea, Volumes I and II, Martinus Nijhoff Publishers: Kluwer Law International.

Elferink, A & Rothwell, D (Eds) (2001) The Law of the Sea & Polar Maritime Delimitation, Martinus Nijhoff

Environment Australia (1997) Australia's Oceans Policy, Background Paper No 2, International Agreements, Portfolio Marine Group.

Eiriksson, G. (2000) The International Tribunal for the Law of the Sea, Martinus Nijhoff Publishers.

Gold, E (1981) Maritime Transport: The Evolution of International Marine Policy and Shipping Law, Lexington Books, Toronto.

Grotius, H. (1972 reprint) The Freedom of the Sea: or, the Right which belongs to the Dutch to take part

in the East Indian Trade, The Evolution of Capitalism Series, Ayer Co Publishing.

Kaye, S. (1995) Australia's Maritime Boundaries, Wollongong Papers on Maritime Policy No 4, Centre for Maritime Policy, University of Wollongong.

Kaye, S. (1997) The Torres Strait, Vol. 12 of 'International Straits of the World', Martinus Nijhoff Publishers.

Kaye, S. (2001) International Fisheries Management, Kluwer International

Munavvar, M (1995) Ocean States: Archipelagic Regimes in the Law of the Sea, Martinus Nijhoff Publishers.

Nordquist, M. H. and Moore, J. N. (1995) Entry into Force of the Law of the Sea Convention, Martinus Nijhoff Publishers.

Nordquist, M. H. and Moore, J. N. (1999) Oceans Policy, Martinus Nijhoff Publishers.

O'Connell, D.P. (1982) International Law of the Sea, Oxford: Clarendon Press.

Oda, Shigeru. Judge (2003) Fifty Years of the Law of the Sea, Kluwer

Payoyo, P.B. (1997) Cries of the Sea, Martinus Nijhoff Publishers,

Pharand, D. and Leanza, U. (1993) The Continental Shelf and the Exclusive Economic Zone, Martinus Nijhoff Publishers.

Platzoder, R. (1994) The United Nations Convention on the Law of the Sea: basic documents, Martinus Nijhoff Publishers.

Reicher, H. (ed), (1995) Australian International Law: Cases and Materials, Sydney: LBC

Rothwell, D and Bateman, S. (2000) Navigational Rights and Freedoms and The New Law of the Sea, Martinus Nijhoff Publishers.

Selden, J. (1972 reprint) Of the Dominion or Ownership of the Sea, The Evolution of Capitalism Series, Ayer Co. Publishing.

Shearer, I. (1994) Starke's International Law, 11th edition, Sydney: Butterworths

Sohn, L & Noyes J (2004) Cases and Materials on the law of the sea, Transnational Publishers, NY.

United Nations, Division of Ocean Affairs and the Law of the Sea, (1993) The Law of the Sea: a Select Bibliography, New York, United Nations.

Vidas, D. and Ostreng, W (1999) Order for the Oceans at the Turn of the Century, Kluwer Law International.

White, M. (1994) Marine Pollution Laws of the Australasian Region (Chapters 7,8 & 9), Federation Press.

**Internet**

<http://www.un.org/law/>

- latest UN information on treaties
- has a special section for law of the sea
- has alternative language sites

<http://www.un.org/Depts/los/>

- goes straight to LOS issues at the UN

<http://www.austlii.edu.au/au/other/dfat/>

- Department of Foreign Affairs treaty library
- gives latest Australian treaty action and NIA's

<http://www.fed.gov.au/>

- Australian Federal government entry point for all departments

<http://www.dfat.gov>

- Department of Foreign Affairs pages

<http://www.law.gov.au>

- Attorney-General's department
- interpretation of Australia's treaty obligations

<http://www.affa.gov.au/affa/fisheries.html>

- useful fisheries information

<http://www.erin.gov.au/portfolio/>

- Oceans Policy information
- other environmental information

<http://www.amsa.gov.au>

- Australian Maritime Safety Authority

<http://www.antdiv.gov.au>

- Australian Antarctic Division

<http://www.gbrmpa.gov.au>

- Great Barrier Reef Marine Park Authority

<http://www.imo.org/imo/welcome.htm>

- IMO homepage

<http://www-ibru.dur.ac.uk>

- International Boundaries Research Unit at University of Durham, UK
- has information on all disputed boundaries including those in the sea

<http://www.isa.org.jm/>

- information on the International Seabed Authority

<http://www.state.gov/www/global/oes/oceans/index.html>

- US State Department pages on oceans policy and law of the sea
-

<http://www.uscg.mil/>

- US Coast Guard pages
- useful information on fisheries and other enforcement issues

<http://www.itlos.org>

- International Tribunal for the Law of the Sea (ITLOS).

### **Conventions (available on the internet)**

United Nations Convention on the Law of the Sea (UNCLOS or LOSC) (ATS 1994 No 31)

Agreement relating to the Implementation of Part XI of the UNCLOS (ATS 1994 No 32)

Agreement for the Implementation of the provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks & Highly Migratory Fish Stocks (ATS 1995 No 43)

UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001

### **Legislation (available on the internet)**

Coastal Waters (State Powers) Act 1980 (Cth)

Coastal Waters (State Title) Act 1980 (Cth)

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Fisheries Management Act 1991 (Cth)

Offshore Minerals Act 1994 (Cth)

Petroleum (Australia - Indonesia Zone of Cooperation) Act 1990 (Cth)

Petroleum (Submerged Lands) Act 1967 (Cth)

Seas and Submerged Lands Act 1973 (Cth)

Torres Strait Fisheries Act 1984 (Cth)

Crimes at Sea Act 2000 (Cth)

## **ASSESSMENT**

### **Assessment Overview**

Assessment will be by presentation of an Outline (30%) and then a dissertation (70%). The Executive Education registrants, of course, have no assessment. The topic for the dissertation is one that is chosen by the student but must be approved by the Course Coordinator or relevant Course Presenter. The Course Coordinator or relevant Course Presenter will discuss with and guide students as to a suitable topic, as to breadth, depth, and research material availability. The course presenters/coordinator will be available to give guidance on structure, style and substance, by email, phone or personal discussion. They will not, however, read or discuss in detail the students' work with them before assessment. The final assessment is a combination of the assessment for the Outline and for the Dissertation. The ratio of

marks to grades is given under.

Weighting	Assessment item
30%	<p><b><u>Outline</u></b></p> <p>Students are to prepare a synopsis of their dissertation, no longer than 4 A4 pages, which includes</p> <ul style="list-style-type: none"> <li>• a draft research project title</li> <li>• draft aims</li> <li>• draft research question</li> <li>• proposed methodology and significance of the project</li> <li>• a review of the literature relevant to the research question in the form of a draft bibliography and brief commentary on the literature</li> </ul>
70%	<p><b><u>Dissertation</u></b></p> <ul style="list-style-type: none"> <li>• The dissertation is to be based on the Outline for that topic.</li> <li>• The dissertation must be presented in accordance with the “house-style” of the T.C. Beirne School of Law, which accords with the style and referencing in Melbourne University Law Review Association, <i>The Australian Guide to Legal Citation</i>, 2<sup>nd</sup> ed, Melbourne University Law Review Association, 2002.</li> <li>• The dissertation is to be of approximately 7,000 words (excluding footnotes)</li> <li>• The dissertation is to be submitted to the Course Coordinator by 5pm on the date that is two months after completion of the course. Requests for an extension of time should be made by email giving reasons for an extension.</li> <li>• The dissertation is to be submitted in hard copy and, preferably, in electronic form. Both copies of the dissertation will be retained and the copy in electronic form may be made available to later researchers. If a student does not want the dissertation made available to later researchers then submission in electronic form is not required.</li> <li>• Where material substantially exceeds the prescribed word length the excess material may be ignored for assessment purposes.</li> </ul>

### Outline Assessment Marking Criteria

Grade	Criteria
1-3 0-15%	A student has not identified a suitable research question and/or has not produced a methodology and/or has not conducted a literature review.
4 15-19%	A student has attempted to identify a research question but has not demonstrated that it is particularly original or significant, produced a methodology and has attempted a literature review.
5 20-22%	A student has identified a research question but has not demonstrated that it is particularly original or significant, produced a clear methodology and has undertaken an adequate literature review.
6 23-25%	A student has identified an incisive and significant research question, produced a clear methodology and has undertaken an adequate.

## Dissertation Assessment Marking Criteria

Students should aim to produce a dissertation which is worthy of publication as a contribution to a law school journal. Consequently, the dissertation should:

1. demonstrate an understanding of the legal issues raised by the topic;
2. demonstrate research which extends beyond textbooks and materials provided by the lecturers in class;
3. demonstrate an ability to relate pertinent material to the issues and to analyse the issues in light of that material;
4. demonstrate an ability to argue a point of view in a logical and coherent fashion supported by primary and secondary source material;
5. demonstrate a command of the English language and an ability to appropriately present and reference a dissertation which is commensurate with the standard expected for the publication of legal articles.

Grade	Criteria
1-3 0-34%	A student who produces a dissertation which is neither well researched nor written and which does not demonstrate any real understanding of the issues involved will fail.
4 35-45%	A student who produces a dissertation which is well written but which does not demonstrate any real legal analysis will receive a grade of 4.
5 46-52%	A student who produces a dissertation which deals with the legal issues adequately and which is adequately written and referenced will receive a grade of 5.
6 53-60%	A student who produces a dissertation which deals well with the legal issues in the problem but which is not presented to a high enough standard for publication will receive a grade of 6.
7 61-70%	A student who produces a dissertation which is considered worthy of publication with little or no amendment will receive a grade of 7.

## Final grade

Grade	%	Criteria
1	1%+	<b>Serious Fail:</b> You failed to satisfy most or all of the basic requirements of the course.
2	20%+	<b>Fail:</b> You failed to satisfy some of the basic requirements of the course.
3 *	48%+	You fell short of satisfying all of the basic requirements for Pass but you were granted a concession for the deficiencies through: being close to satisfactory overall, or having compensating strengths in some aspects of the course, or having compensating strengths in other courses, or other mitigating considerations.
4	50%+	<b>Pass:</b> You satisfied all of the basic learning requirements for the course, such as knowledge of fundamental concepts and performance of basic skills; and you demonstrated sufficient quality of performance to be considered satisfactory or adequate or competent or capable in the course.
5	65%+	<b>Credit:</b> You demonstrated an ability to use and apply fundamental concepts and skills of the course, going beyond mere replication of content knowledge or skill to show an understanding of key ideas, awareness of their relevance, some use of analytical skills, and some originality or insight.
6	75%+	<b>Distinction:</b> You demonstrated awareness and understanding of the deeper and subtler aspects of the course, such as the ability to identify and debate

		critical issues or problems, the ability to solve non-routine problems, the ability to adapt and apply ideas to new situations, and the ability to invent and evaluate new ideas.
7	85%+	<b>High Distinction:</b> You demonstrated imagination, originality or flair, based on proficiency in all of the learning objectives for the course; your work was interesting or surprising or exciting or challenging or erudite.

\* **Please note:** A grade of 3 in a postgraduate course is not recognised as a pass. Postgraduate students must obtain a grade of 4 or above to successfully complete the course.

## Waivers and extensions

A waiver or an extension will only be granted by the Co-ordinator if your request is due to medical reasons and the request is accompanied by a medical certificate; personal tragedy; or circumstances of extreme hardship. A waiver or an extension will not be granted for any other reason, including transport problems; computer problems; work or sporting commitments; or contemporaneous assessment requirements in other courses being studied.

## Review of Assessment

A student may request a review session with the co-ordinator which will be held at a time mutually agreed with the co-ordinator. Review sessions will not be held in the week following the publication of results and will be completed before the end of the third week of the succeeding semester. Feedback will be provided either in oral session or in written form.

Remarking is done only under exceptional circumstances and is only considered if the student has sought and received feedback about performance from the course coordinator and the student, after receiving feedback, provides in writing a substantial case to show how the mark awarded does not reflect their performance with respect to the published assessment criteria for that assessment. For relevant procedures, see HUPP 3.30.2.

## Plagiarism and cheating

The University defines plagiarism as “the action or practice of taking and using as one’s own the thoughts or writings of another, without acknowledgment”. The following practices constitute acts of plagiarism and are a major infringement of the University’s academic values:

- where paragraphs, sentences, a single sentence or significant parts of a sentence are copied directly, and are not enclosed in quotation marks and appropriately footnoted;
- where direct quotations are not used, but are paraphrased or summarised, and the source of the material is not acknowledged either by footnoting or other simple reference within the text of the paper; and
- where an idea which appears elsewhere in printed, electronic or audiovisual material is used or developed without reference being made to the author or the source of that material."

Plagiarism also includes using any material written by someone else which you then pass off as your own. It includes having other people write (or substantially assist with) your assignments. The policy on plagiarism applies to all forms of assessment including assignments and take-home exams.

Students should submit only work which is their own, or which properly acknowledges the ideas or words of others; avoid lending original work to others; be clear about assessment conditions for assessment items; be clear about what is appropriate referencing and assessment practice in their field of study; and

discourage others from plagiarising by observing the practices above.

In the case of suspected plagiarism, the staff member will report the incident, in the first instance, to the Head of School. If, on initial investigation, a case of misconduct, based on the allegation of plagiarism, is confirmed, the Head of School as the decision-maker will issue an appropriate penalty. If, on initial investigation, the Head of School uncovers a greater level of misconduct than was at first reported, the Head may refer the matter to a higher level of jurisdiction. The jurisdiction and penalty powers of each decision-maker may be found in section 10 of Statute No. 4.

Last update 24.6.05