



DIVISION OF LAW

**LAW 808/857
ENVIRONMENTAL
LITIGATION AND MEDIATION**

STUDY GUIDE

2008



**MACQUARIE UNIVERSITY
DIVISION OF LAW
STUDY GUIDE**

Year and Semester:	2008, Semester 2
Unit Code & Unit Name:	LAW 808/857 Environmental Litigation and Mediation
Credit points:	Law 808 6 credit points Law 857 4 credit points
Unit convenor:	Mrs Erika Techera

Students in this unit should read this study guide carefully at the start of semester. It contains important information about the unit. Please contact the Unit Convenor if you require clarification on any aspect of the Unit.

1. ABOUT THIS UNIT

UNIT DESCRIPTION

The unit will critically examine the adversarial and consensual modes of dispute resolution in the environmental context. The nature and scope of environmental disputes will be considered including both international and domestic matters. However, the administrative and judicial characteristics of the New South Wales Land and Environment Court will provide a focus for analysis of evidence and procedure. Comparative approaches from other jurisdictions with respect to litigation and public participation will be discussed. Mediation will also be examined as a phenomenon and as a process.

UNIT RATIONALE

Environmental disputes include a wide range of issues and actors. They may involve small domestic planning matters, large infrastructure projects, global environmental concerns and international issues surrounding enforcement of multilateral environmental agreements. An understanding of the range of mechanisms that may be utilised to resolve these disputes is therefore essential as well as the court rules, litigation process and mediation procedures involved. Environmental litigation in many jurisdictions is now dealt with by a specialised Court or tribunal and is distinct from other forms of litigation in that it generally involves a significant element of what is referred to as the 'public interest'. The law of standing in the context of public participation has also undergone major reforms to afford citizens the right to both contest development and to

ensure and monitor compliance with environmental legislation and this in turn has necessitated further reforms in the way in which environmental cases are litigated and environmental disputes are addressed. This unit will assist the student in understanding the interface between litigation and other forms of dispute resolution relating to environmental law.

2. TEACHING STAFF

Convenor: Erika Techera
Ph: (02) 9850 7925 (office) 0416 224 644 (mobile)
Fax: (02) 9850 7686
Office W3A 441
Email: erika.techera@law.mq.edu.au

Consultation hours are Wednesday 10-12 pm (each week) and 2pm-4pm (in non-teaching weeks) or by appointment.

3. CLASSES AND STUDY TIMES

This unit is taught both internally (intensive only) and externally. **PLEASE NOTE: ALL INTERNATIONAL STUDENTS MUST ENROL AS INTERNAL STUDENTS TO COMPLY WITH VISA REQUIREMENTS.**

Internal students: Attend 4 intensive classes plus an On Campus Session.

Intensive classes will be held on Wednesdays from 1-5pm in Room W3A 328 on the 6th, 13th, 20th and 27th August. **Internal students** are required to attend eighty-percent (80%) of these classes. If you fail to attend eighty percent of all classes, you will fail the unit.

IN ADDITION internal students must attend the **ON CAMPUS SESSION**. Please sign attendance register at the Centre for Open Education (X5B) upon arrival. **Postgraduate students must attend all three days** from 13-15 September 2008 in Room C5C 240.

External students: Attend an On Campus Session at Macquarie University.

ATTENDANCE AT THE ON CAMPUS SESSION IS COMPULSORY – failure to attend the OCS will result in a fail result for the Unit. Please sign attendance register at the Centre for Open Education (X5B) upon arrival.

Postgraduate students must attend all three days from 13-15 September 2008 in room **C5C 240**.

External students are encouraged to attend the intensive classes (as set out above) if possible.

A detailed program for the 3 day on campus session will be uploaded to the Blackboard site at the beginning of the semester.

There will be no iLectures for this unit.

4. REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

PRESCRIBED

There is no prescribed textbook. All materials for this unit are on E-RESERVE or accessible via the internet. The Reading List, with details of the materials, is on the BLACKBOARD site for the Unit.

RECOMMENDED

In addition to the set reading there are a range of textbooks available from the university library which you may find useful or if you wish to do some extra reading on a particular topic. The following list is not exhaustive and a search of the library catalogue may reveal other useful texts. The library call number for each text is also shown where available. Please note that in consulting these texts they should be read carefully because subsequent developments in international law may mean the text no longer reflects international law. Additional references include:

For students new to the study of law we recommend

- Chisholm and Nettheim, *Understanding Law: An introduction to Australia's Legal System* (2007) Butterworths - KU68 .C48 2007**

For students new to the study of Australian environmental law we recommend

- Lyster, R, et al *Environmental and Planning Law in NSW*, Federation Press (2007), which may be useful to a number of MU-CEL Units.**
- Preston, BJ 'Environmental law 1927-2007: Retrospect and prospect (2007) 81 ALJ 616. For an excellent introductory summary.

Texts

Please note that in consulting these texts they should be read carefully because subsequent developments may mean the text no longer reflects the current law. Additional references include:

- Bacow, LS and Wheeler, M, *Environmental Dispute Resolution*, Plenum Press (1984) – KF 3775.B32 1984
- Bates, G, *Environmental Law in Australia*, Butterworths, 6th Ed, (2002) - KU1507 .B38 2006**
- Beyerlin, U et al (Eds) *Ensuring Compliance with Multilateral Environmental Agreements: A Dialogue between Practitioners and Academia*, Martinus Nijhoff Publishers (2006)
- Fisher, D, *Australian Environmental Law*, Law Book Co., (2003).
- Freeman, M *Alternative Dispute Resolution* Dartmouth Publishing (1995) – KD7644.A75.A48
- Lyster, R, et al *Environmental and Planning Law in NSW*, Federation Press (2007) - KUC155 .E572**
- Preston, BJ, *Environmental Litigation*, Law Book Company (1989) - KD1125 .P74
- Sidaway, R, *Resolving Environmental Disputes: From Conflict to Consensus*, Earthscan (2005).
- Sourdin, T, *Alternative dispute resolution* Law Book Company (2002) - KU3755 .S62
- Spencer, D and Altobelli, T, *Dispute Resolution in Australia-Cases, Commentary & Materials*, Law Book Co, (2005). - KU3755 .S642**
- Spencer, D, *Essential Dispute Resolution*, 2nd Ed, Cavendish Publishing, (2005) - KU3755 .S644**
- Land and Environment Court Law and Practice (NSW), Law Book Co., Sydney;
- Local Government Planning and Environment, Butterworths, Sydney.

Journals

- Australasian Dispute Resolution Journal
- Commercial Dispute Resolution Journal
- International Journal of Sociology and the Law
- Journal of dispute resolution
- Journal of environmental law and litigation
- Journal of International Arbitration
- Local Government Law Journal
- Negotiation Journal
- Ohio State journal on dispute resolution
- Pepperdine dispute resolution law journal
- Willamette journal of international law and dispute resolution

Websites

- Austlii – www.austlii.edu.au
- Land and Environment Court – <http://www.lawlink.nsw.gov.au/lec>
- Environmental Defenders Office <http://www.edo.org.au/>

- Study Guides and information on this unit can be found at : <http://www.law.mq.edu.au/html.postgraduate/studyguides.htm>
- There is also a BLACKBOARD CE6 (formerly WebCT) site for this Unit. This also contains the Study Guide but will also provide access to additional materials such as PowerPoint slides, tutorial questions, quizzes, web links and further readings. This is accessible at <http://learn.mq.edu.au>. When students enrol in this Unit they are automatically granted access to the web site. If you have technical problems please follow the instructions on the web site. But if you cannot log into the site within 5 days of enrolling, then please contact the Unit Convener immediately. Students should access the site at least once a week.

6. LEARNING OBJECTIVES

At the end of the course, students should:

- understand the historical and contextual background of dispute resolution in the environment law field.
- understand the theoretical underpinnings of litigation and other forms of dispute resolution in the context of environment law.
- Be able to critically analyse the role of the various mechanisms and actors involved in environmental dispute resolution .
- understand the reasons for and content of basic rules of court, the litigation process and mediation procedures and be able to apply their understanding to factual scenarios.
- be able to identify the emerging factors that are now shaping the environmental litigation agenda and analyse the adequacy of our legal system in this field.
- be able to identify and propose solutions for the resolution of environmental disputes including the evaluation of forum.

7. GENERIC SKILLS

In addition to the discipline-based learning objectives, all academic programs at Macquarie seek to develop students' generic skills in a range of areas. One of the aims of this unit is that students develop their skills in the following:

- *Communication skills;*
- *Critical analysis skills;*
- *Problem-solving skills;*
- *Creative thinking skills;*
- *Interdisciplinary skills*

8. TEACHING AND LEARNING STRATEGY

The internal tutorials will be taught on an interactive basis using a variety of techniques including lectures setting the context, class discussion and small group work. The On-Campus Session will also be taught on this basis as interactive seminars over the three day period similar to the internal tutorials. The on-campus session is designed to present the opportunity for extensive discussion of the issues covered and will provide the student with an understanding and appreciation of the issues involved in environmental litigation and mediation. Small group work may be used throughout the tutorials and the on campus sessions including case studies, hypothetical problems, role plays and quizzes.

9. ASSESSMENT

LAW 857:

Class participation	20%	
Assignment 1	30% (3,000 words)	Due 5pm 12th September, 2008
Assignment 2	50% (4,500 words)	Due 5pm 14th November, 2008

LAW 808:

Class participation	20%	
Assignment 1	30% (3,000 words)	Due 5pm 12th September, 2008
Assignment 2	50% (6,500 words)	Due 5pm 14th November, 2008

Class Participation

Online Discussion Board participation - 10%

Students are required to contribute to the Blackboard Discussion relating to the key topic areas. A discussion question will be posed by the Convener each week. Students are expected to contribute by posting comments, opinions, further questions and answers as appropriate. Marks will be awarded for the quality rather than quantity of postings (see the next section for details of criteria to assess participation).

Participation at the on campus session - 10%

Assessment for this unit also includes class participation at the On Campus Session. Students should ensure they have completed the required reading for that week before each class, and be prepared to discuss this material in class. Students will not be awarded class participation just for attending class. The following non-exhaustive criteria list will be used to assess your class participation:

- The level of preparedness for each seminar/on campus session gauged by your responses to questions and answers and opinions offered throughout each class
- The level of analysis you display in class
- Your ability to answer questions put directly to you in class
- Your ability to make an educated and legally feasible argument in class
- The way in which you engage in a constructive way with other students and the Convenor in the class
- The quality NOT quantity of your work in class

Please note that the onus to participate in class is on you not on the Convenor. In other words, it is not the job of the Convenor to engage you in discussion so that you may avail yourself of the class participation assessment.

Submission of Assignments

Students should ensure that their tutor's name and their tutorial group is provided on the first (cover) page of every assignment. Assignments should be typed – **double spaced and in point 12 font**. All pages must be firmly stapled or pinned together. The cover sheet attached to the rear of this study guide should be completed and attached to the front of your assignment.

External assignments sent by email, Australia Post, or by courier must be dispatched by the due date. The cover of the assignment should be date stamped by the post office before dispatch by mail.

Internal students should post their papers in the Postgraduate box outside W3A 341. **Do not** push assignments under the Convenor's or tutor's door or post them in your tutor's pigeon hole in the Law Division's staff room. These methods of delivery are not secure.

Students are required to email an additional copy of assignments to the Course Convenor. This overcomes any issues in relation to submission date and time and also operates as a back copy of students' work. Students should always make and retain a backup copy of all pieces of work submitted. It is University policy to place upon the students the onus of producing a copy of work which goes astray.

Word Length

Word length of assignments should be indicated. Word limits should be adhered to. The word length indicated for the assignments is exclusive of footnotes and Bibliography. The word limit should not be exceeded by more than 10%. Excessively long assignments will be penalised.

Citations/Footnotes/Bibliography

All assignments must be footnoted and have a comprehensive Bibliography. Students should use a proper legal citation method in all their written work. Citation of footnotes and references should follow the format set out in the Australian Guide to Legal Citation. Copies of this guide can be downloaded from the University of Melbourne Web site <http://mulr.law.unimelb.edu.au/aglc.asp> or can be purchased from the Co-op Bookshop.

For a model look at any issue of the *Macquarie Journal of International and Comparative Environmental Law* which is available in the library and online at <http://www.law.mq.edu.au/html/MqJICEL/about.htm>.

Late Submission

Illness or serious misadventure may be sufficient excuse, preventing submission on time, but complete details must be notified to tutors, **in writing, before the due date**, and be supported by medical certificate or other appropriate documentation. Pressure of work is generally **not** an acceptable ground for delay. If an extension of time is granted by a tutor, then the assignment must be submitted within this time. An excuse is good for one assignment only, there can be no chain effect.

It is possible to fail the course on penalties.

Note: *The current Divisional policy on penalties for lateness is 10% up to 7 days; 20% up to 14 days; work submitted later than 14 days need not be accepted.*

Failure to Submit Work or Attend Classes

It should be noted that University regulations require that all classes, assignments and compulsory On-Campus sessions be satisfactorily attended and completed. Non-completion of any piece of work or non-attendance at a compulsory On-Campus Session without sufficient excuse will result in an F grade.

10. RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OBJECTIVES

The first assignment provides students with the opportunity to demonstrate an understanding of and critically discuss key theoretical concepts related to the Unit.

In the second assignment, the research essay will provide students with the opportunity to research further in a specific topic area. In particular it will allow students to demonstrate their ability to think critically about the relevant theoretical and policy issues and critique legal frameworks. The problem based question will allow students to demonstrate their understanding of the legal framework, clear issue identification, ability to apply the law to a variety of factual situations and analytical and critical skills.

11. PLAGIARISM

The University defines plagiarism in its rules: "Plagiarism involves using the work of another person and presenting it as one's own." Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's policies and procedures on plagiarism. These can be found in the *Handbook of Undergraduate Studies* or on the web at: <http://www.student.mq.edu.au/plagiarism/>

The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

Macquarie University holds a licence to the plagiarism detection software, turnitin®. This software may be used at the discretion of the Convenor, and electronically compares your

work to that of your classmates, previous students from Macquarie and other universities, material available on the Internet, and both freely available and subscription-based electronic journals. You can read more about turnitin® at www.copyright.mq.edu.au/plag.html

12. UNIVERSITY POLICY ON GRADING

The University requires all Divisions to adhere to a policy relating to the distribution of grades across high distinction, distinction, credit and pass grades. This means that on occasion a student's raw mark for a unit (ie, the total of their marks for each assessment item) may not be the same as that which they receive on their transcript. This is because the total raw mark may be scaled up or down so that the grades of all students in each unit sit within the distribution bands set down by the University. The policy does not require that any number of students are to be failed in any unit.

13. SCHEDULE OF TOPICS

The Unit will be divided into nine topic areas. A detailed reading list will be uploaded to the Blackboard CE6 site at the commencement of the semester.

CLASS SCHEDULE FOR INTERNAL-INTENSIVE CLASSES

Class 1 (Wednesday 6th August)

Introduction to the Unit, explanation of assessment, course structure, texts and materials.

Class 2 (Wednesday 13th August)

Introduction to Australian law and dispute resolution

Class 3 (Wednesday 20th August)

Field trip: Tour of Sydney Courts including Land and Environment Court

Class 4 (Wednesday 27th August)

Dispute Resolution role play

ON-CAMPUS SESSION SCHEDULE

13th-15th September 2008

13th September 2008

- 9:00-9:30 Introduction and Overview of Unit and OCS
9:30-11:00 The Nature of Environmental Disputes and Dispute Resolution
11:00-11:30 MORNING COFFEE
11.30-1.00 Fundamentals of litigation
1.00 - 2.00 LUNCH
2.00 - 3.30 Issues in Environmental Litigation
3.30 - 4.00 AFTERNOON TEA
4:00 - 5.00 International Environmental Disputes

14th September 2008

- 9.00 - 11.00 Public Interest Environmental Litigation
11.00 - 11.30 MORNING COFFEE
11.30 - 1.00 Land and Environment Court Proceedings
1.00 - 2.00 LUNCH
2.00 - 3.00 Environmental ADR
3.30 - 3.00 AFTERNOON TEA
4.00 - 5.00 Environmental Mediation

15th September 2008

- 9.30 - 10.30 The Way Forward: The Multi-door courthouse
10.30-11.00 MORNING COFFEE
11.00-12.00 Current Issues: Climate Change Litigation
12.00 -1.00 General discussion of possible topics for assignment 2
1.00 onwards Individual appointments for discussion of research topics

READING LIST

TOPIC 1 - INTRODUCTION

1. Spencer, D, and Altobelli, T, 'Dispute resolution in Australia: cases, commentary and materials' (2005) LBC. Chapter 1 – Introduction pp.1-43.
2. MacDonnell, LJ, 'Natural Resources Dispute Resolution: An Overview (1988) 28 *Natural Resources Journal* 5.
3. Preston, BJ 'The Limits of Environmental Dispute Resolution' (1995) 13 *Australian Bar Review* 148

TOPIC 2 – FUNDAMENTALS OF LITIGATION

1. Bottomley, S and Bronitt, S, *Law in Context* Federation Press (2006) pp116-150.
2. Heilbronn, G, et al *Introducing the Law* CCH (2008) pp.286-292 and pp.297-300 and pp.312-335.
3. Underwood, CJ, 'The Trial Process – Does One Size Fit All?' Paper presented to the *Australian Insurance Law Association* 10 November 2005 accessible at http://www.supremecourt.tas.gov.au/publications/speeches/underwood/the_trial_process

TOPIC 3 – ISSUES IN ENVIRONMENTAL LITIGATION

1. Hon Justice P Slicer 'Law, Standing and the Environment' Address given to the EDO Conference on 23 August 2002 at, The Old Woolstore, Hobart. Accessible at http://www.supremecourt.tas.gov.au/publications/speeches/slicer/standing_env?SQ_DESIGN_NAME=printer_friendly
2. Bates, G, *Environmental Law in Australia*, 6th Edition, Butterworths 2006. Chapter 6 – Standing
3. Vergotis, P, 'Reconciling neighbourhood disputes in the context of Development Application' (2005) 11 *LGLJ* 26.
4. Rigney, S, 'The Role of Procedural Fairness and Ultra Vires in the Judicial Review of Environmental Disputes' (1993) 10 *EPLJ* 136
5. Jeffery, MI, 'Intervenor Funding as the Key to Effective Citizen Participation in the Environmental Decision-Making' (2002) 19(2) *Arizona Journal of International and Comparative Law* 643
6. Haydon, J 'Lawyers, expert witnesses and the Planning and Environment Court' (2004) 9 *LGLJ* 204
7. Hon Justice P McClellan 'Expert Evidence: Aces Up Your Sleeve?' (2007) 8 *The Judicial Review* 215.
8. Chernaik, ML 'Empowering Environmental Lawyers Worldwide with Scientific Expertise' (1998) 13 *Journal of Environmental Law and Litigation* 17.

TOPIC 4 – INTERNATIONAL ENVIRONMENTAL DISPUTE RESOLUTION

1. Sands, P, 'Litigating Environmental Disputes: Courts, Tribunals and the Progressive Development of International Environmental Law'. Paper presented at the OECD Global Forum on International Investment 27-28 March 2008. <http://www.oecd.org/dataoecd/45/7/40311090.pdf>
2. Rinceanu, J 'Enforcement Mechanisms in International Environmental Law: Quo Vadunt', (2000) 15 *Journal of Environmental Law and Litigation* 147.
3. Kaye, R, 'Transnational environmental litigation' (2007) 24 *Environmental Planning and Law Journal* 35.

TOPIC 5 – PUBLIC INTEREST ENVIRONMENTAL LITIGATION

1. Preston, BJ, 'The Role of Public Interest Environmental Litigation' (2006) 23 *EPLJ* 337.
2. Rajamani, L, 'Public Interest Environmental Litigation in India: Exploring issues of access, participation, equity, effectiveness and sustainability' (2007) 19(3) *Journal of Environmental Law* 293.
3. Goldman, P, 'Public Interest Environmental Litigation in China: Lessons Learned from the US Experience' (2007) 8 *Vermont Journal of Environmental Law* 251.

TOPIC 6 –THE COURT IN ENVIRONMENTAL DISPUTE RESOLUTION

1. Australian Court Structure accessible at <http://www.schools.nsw.edu.au/nswconstitution/html/5th/bgr/overview.html>
2. Hon Justice Paul Stein *Down Under Perspective of the Environmental Court Project* Paper given at the UK Environmental Law Association Seminar in London 27 June 2000 accessible at http://www.lawlink.nsw.gov.au/lawlink/supreme_court/ll_sc.nsf/pages/SCO_speech_stein_270600
3. Environmental Defenders Office, Fact Sheet, *Land and Environment Court Proceedings* http://www.edo.org.au/edonsw/site/factsh/fs02_1_5.php
4. Hon Justice Brian J Preston *Practice and Procedure in the Land and Environment Court of NSW* Paper presented to the Planning & Development and Environmental Law Conference 8-9 February 2007, Grace Hotel, Sydney. Accessible at [http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Speech_8-9Feb07_Preston_Lexis.doc/\\$file/Speech_8-9Feb07_Preston_Lexis.doc](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/vwFiles/Speech_8-9Feb07_Preston_Lexis.doc/$file/Speech_8-9Feb07_Preston_Lexis.doc)
5. Land and Environment Court Practitioners Guide http://www.lawsociety.com.au/uploads/filelibrary/1083733605093_0.018176172069767404.pdf
6. Land and Environment Court Procedures accessible at http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/pages/LEC_practice_procedure
7. Land and Environment Court Act <http://www.legislation.nsw.gov.au/viewtop/inforce/act+204+1979+FIRST+0+N/>

8. Land and Environment Court Rules
<http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+578+2007+FIRST+0+N>

TOPIC 7 – ALTERNATIVE ENVIRONMENTAL DISPUTE RESOLUTION

1. Foley, T, 'Environmental Negotiation: Finding Shared Interests in Forest Use Conflict' (2002) 13 *ADRJ* 98.
2. Preston, BJ 'Conciliation in the Land and Environment Court of NSW: History, nature and benefits' (2007) 13 *LGLJ* 110.
3. Casey, K, 'Good faith in environmental alternative dispute resolution: When 'any road' won't do', (2007) 24 *EPLJ* 346.
4. McKillop, J, et al 'Evaluating environmental dispute resolution' (2003) 14 *ADRJ* 142.

TOPIC 8 – ENVIRONMENTAL MEDIATION

1. Napier, C 'The Practice of Mediation in Commercial Environmental Disputes' in Napier, C (Ed) *Environmental Conflict Resolution*, Cameron & May (1998).
2. Horn, L, 'Mediation of environmental conflicts' (2005) 22 *Environmental Planning and Law Journal* 369
3. Wulf, P, 'Court-ordered mediation in the Planning and Environment Court: Does it assist self-represented litigants?' (2007) 18 *ADRJ* 149

TOPIC 9 – CURRENT ISSUES AND THE WAY FORWARD

1. Horn, L, 'Climate change litigation actions for future generations' (2008) 25 *Environmental Planning and Law Journal* 115
2. Koivurova, T 'International Legal Avenues to Address the Plight of Victims of Climate Change: Problems and Prospects' (2007) 22 *Journal of Environmental Law and Litigation* 268.
3. Hon Justice Brian J Preston, *The Land and Environment Court of NSW: Moving Towards a Multi-Door Courthouse*. Keynote address given at the LEADR NSW Chapter Annual Dinner, 15 November 2007 Sydney.
4. Hon Justice Underwood, CJ, *Alternative Dispute Resolution as a Judicial Tool: A comment*, Seventh Worldwide Common Law Judiciary Conference in London in April 2007 accessible at <http://www.supremecourt.tas.gov.au/publications/speeches/underwood/adr>

ASSIGNMENT 1 (all students)

All students are to answer the following question. You are required to be familiar with and refer to the study materials but may, and are encouraged, to use sources outside of the prescribed reading.

Due Date: 12th September 2008

Maximum Word Length: 3000 words

Weight: 30%

It has been said that ADR offers a quicker, more efficient, less costly and more equitable solution for environmentally based disputes than the more traditional form of litigation. Critically examine this statement having regard to the principle limitations and advantages of environmental litigation.

ASSIGNMENT 2 (all students)

Due Date: 14 November 2008

Maximum Word Length: Law 857 – 4500 words
Law 808 – 6500 words

Weight: 50%

RESEARCH QUESTION

Choose **any** topic relevant to LAW 857/808 Environmental Law and Mediation. **Discuss the issues and relevant legal framework.** Make it clear what jurisdiction(s) and environmental laws, theories, principles and policies that you will be discussing. Major emphasis should be placed on a critique of this framework. This is your opportunity to put forward your own views on an area of specific interest to you in the context of this course.

Alternatively students may answer one of the following questions:-

1. Critically examine the role of the expert witness in the context of an environmental hearing such as a hearing before the NSW Land and Environment Court. Include also a discussion the role of the expert witness in the context of an environmental mediation process.
2. Critically evaluate the role of the specialist court in the context of environmental disputes. Include in your answer suggestions for reform of an existing environmental court such as the NSW Land and Environment Court.

