



DIVISION OF LAW

LAW 861

LOCAL GOVERNMENT LAW

STUDY GUIDE

2008



**MACQUARIE UNIVERSITY
DIVISION OF LAW
STUDY GUIDE**

Year and Semester: 2nd Semester, 2008

Unit Code & Unit Name: LAW 861 - Local Government Law

Credit Points: 4 cp

Unit Convener: Christopher Stone

Students in this unit should read this study guide carefully at the start of semester. It contains important information about the unit. If anything in it is unclear, please consult the convener.

1. ABOUT THIS UNIT

Unit Description:

This unit provides an opportunity to examine the practical operation of environmental regulation at the local level, and examines local councils as significant bodies usually overlooked as mechanisms of government regulation. The unit examines regulatory powers and functions in general, and avenues for accountability. Environmental responsibilities of local government are also considered. Institutional and constitutional issues and comparative approaches are explored.

Unit Rationale:

The role of local government has evolved from one of providing basic services (the "roads, rates and rubbish" view) to a far more expansive role which embraces social, economic and environmental responsibilities. Coupled with the expansion of its role is an increasing demand for accountability of local government to the public. This course will examine the changing role of local government and in particular the extent to which institutional and constitutional issues facilitate or impede the implementation of environmental and other important initiatives at the local level. The course will also focus upon the accountability mechanisms available under relevant legislation in respect of the activities of local government.

2. TEACHING STAFF

Unit Convener:

Christopher Stone

Email: christopher.stone@law.mq.edu.au (preferred contact method)

Phone (Mobile): 0401 737 148

Phone (Office): (02) 9850 6883

Office: room 443, building W3A

Consultations: Please contact Christopher to arrange a time.

3. CLASSES AND STUDY TIMES

External students are required to attend a two day on-campus session and to participate in on-line discussion. As internal student numbers for this unit are likely to be low, the course will be delivered in "intensive mode". That is, internal students will be required to attend the on-campus session and participate in on-line discussion, and intensive internal seminars will be arranged with the convener.

On-Campus Session:

Date: 18th and 19th of September

Venue: W3A 328 (Trevor Martin Moot Court Room)

Program: Will be put on the unit website by the first week of term.

Please note that: **ATTENDANCE AT THE ON-CAMPUS SESSION IS COMPULSORY**
You will be required to sign your attendance on arrival at the session venue.

On-Line Participation:

Students will be required to post an introduction and participate in on-line discussions in the "Discussions" section of the unit website. Details are in section 9 "Assessment" of this study guide.

Note: **ON-LINE PARTICIPATION WILL BE ASSESSED FOR 10% OF YOUR UNIT MARK**

4. REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

Most of these readings will be drawn from the prescribed text (below), but additional readings (mostly articles and reports) will also be required. The reason for this is that the text provides an up-to-date manual of what might be thought of as the "facts" of local government. Whereas the additional required readings will bring out some of the "issues" of local government.

Prescribed Text:

David Clark, Bluett's Local Government Handbook New South Wales (16th ed, 2008).

Schedule of Readings:

A schedule of the reading required for each topic will be placed on the web site by the first week of term. This will provide links to, or ways to access, the additional required readings. Students who wish to start on the reading prior to the commencement of term can read from the prescribed text chapter 1 (pp 1-4, relating to topic 1); chapters 3-8 (pp 13-76, relating to topic 2); and chapter 15 (pp 179-212, relating to topic 3).

5. UNIT WEB PAGE

Students can go to: <<https://learn.mq.edu.au/>> for the links to all websites of units that they are enrolled in. Or the web page for this unit can be accessed directly at: <<https://learn.mq.edu.au/webct/logon/233432173021>>

6. LEARNING OBJECTIVES

From this unit, students should develop an understanding of:

- a) the historical and theoretical background of local government law
- b) the issues which impact upon the capacity of local government to implement initiatives at the local level
- c) the provisions of the NSW legislation governing the structure and powers of local government and procedural requirements relevant to local government operations
- d) the accountability mechanisms applicable to local government and their effectiveness

Students should also have the ability to pursue an in-depth understanding of aspects of these and other areas relating to local government law.

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;
Critical analysis;
Problem-solving;
Creative thinking;
Interdisciplinary skills.

8. TEACHING AND LEARNING STRATEGY

Learning at a post-graduate level is a collaborative process where students bring their own knowledge and ideas to the group. Although the lecturer is the primary source of teaching, students are encouraged to offer themselves as learning resources as well.

Opportunities in this unit for learning and interaction with the lecturer and fellow students are provided by the on-campus session on the 18th and 19th of September, and throughout the semester by the unit website. Students are expected to participate in both (each are worth 10% of the unit mark). Participation does not simply consist of turning up to the on-campus session or reading the website. Students must demonstrate engagement with the unit and its content by showing an understanding of the readings and contributing ideas to discussions on unit content.

With regards to the readings, students are expected to complete all prescribed readings. Students should, as much as possible, complete each week's readings in the week set; and students must be up to date at the time of the on-campus session.

The time commitment for this unit, including reading, participation and completion of essays, is expected to be 156 hours over the course of the semester. This represents an average of 12 hours per week; though the actual time spent will vary from week to week.

9. ASSESSMENT

Summary of Assessments:

Task	Size	% of Mark	Due Date
On-line participation	1 hr / week	10	Ongoing
Readings essay	2,500 words	30	05/09/08
On-campus session participation	2 days	10	18-19/09/08
Research essay outline	200 words	-	07/10/08
Research essay	4,000 words	50	31/10/08

On-Line Participation:

Students are expected to introduce themselves (in the "Introductions" discussion topic) and contribute to on-line discussions on the unit web site. A mark will be awarded based on the extent that the students has:

- a) demonstrated an understanding of the readings
- b) applied insight to the unit content

In order to facilitate discussion, at the end of each week, a number of questions will be posted relating to the current unit topic. Responses to these will give students opportunities to participate. However, these are not the

only way to participate; students are welcome to start their own discussions and posts in these will contribute to their mark. Also, any other posts (such as an insightful answer to another student's posted question) that concern unit content will be taken into account in the mark.

It is important to note that on-line participation is not intended to be a large or difficult task. Demonstrating understanding of the readings does not require full referencing, only that points from the text(s) are raised. The application of insight means raising interesting issues, contributing ideas, relating unit content to current events, and similar input. The expectation is that students will spend a **maximum of one hour a week** (on average) making contributions. Students should not feel that they are obliged to participate in every discussion or give comprehensive answers to every question. Remember that this assessment is only worth **10%**.

Readings Essay:

This assignment requires students to answer a set question (which will be provided on the website by the first week of term) examining issues from the readings. No research is required outside the readings for the unit although the legislation should be consulted, as well as case law where relevant. Your answer should demonstrate a thorough knowledge of the theoretical material in the readings and focus upon this material. It should be a clearly written application of the readings to the question and ideally present insightful comments on the issues being dealt with. The essay has a word limit of **2,500 words**, is due on the **5th of September** and is worth **30%** of the unit mark. (Details on word limits, submission and referencing are provided below under the heading "General Essay Information".)

On-Campus Session Participation:

The on-campus session on the **18th and 19th of September** (Thursday & Friday) will be conducted as a series of interactive seminars on each topic area. A mini lecture may be given on each topic to place the issues contextually in the overall course structure, but the focus will be upon class discussion of the topic and course materials. Participation in these discussions will be assessed for **10%** of the unit mark. As with the on-line participation marks will be awarded on the basis of:

- a) demonstrated an understanding of the readings
- b) applied insight to the unit content

Students will be expected to have read the prescribed materials up to Week 7, to contribute to class discussion and to respond to questions from the Convener. Small group discussions may be used also throughout the sessions. Please remember that **attendance at the on-campus session is compulsory**.

Research Essay:

Students are to undertake a research assignment on a topic of their choice relating to local government law. The convener's approval must be obtained

for your topic. It is expected that your research topic will cover: relevant legislative provisions under the Local Government Act 1993 (as amended) and any related legislation; and relevant theoretical and policy issues.

You will be required to submit to the convener by email an outline (in around **200 words**) of your research paper. The outline should clearly indicate the areas/arguments to be covered in your paper and should be submitted no later than Tuesday the **7th of October** for approval.

The essay is due on Friday the **31st of October**, has a word limit of **4,000 words**, and is worth **50%** of the unit mark. (Details on word limits, submission and referencing are provided below under the heading “General Essay Information”.)

General Essay Information:

Assessment Criteria: Essays are assessed based on a number of criteria including originality and insight, critical reasoning and analysis, organization and logical development, quality of expression and style, conciseness, and correct referencing. In addition, the extent to which the essay answers the question set and meets the objectives set out in the assignment description is important to the mark given; so students should ensure that they are fully answering the question and meeting all objectives mentioned.

Grades: The following grading system is used:

85-100%	High Distinction (HD)	Denotes performance which meets all unit objectives in such an exceptional way, and with such marked excellence, that it deserves the highest recognition.
75-84%	Distinction (D)	Denotes performance which clearly deserves a very high level of recognition as an excellent achievement in the unit.
65-74%	Credit (C)	Denotes performance which is substantially better than would normally be expected of competent students in the unit.
50-64%	Pass (P)	Denotes performance which satisfies unit objectives.
45-49%	Pass Conceded (PC)	Denotes performance which meets unit objectives only marginally.
0-44%	Fail (F)	Denotes performance which does not meet the unit objectives.

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.

Word Count: Students should aim to make the word count of their essays slightly lower than the word limit given. The word count includes the text of the essay and so does not include footnotes (unless they are substantial additions to the text) or other referencing, the bibliography, or any title pages. For reasons of equity word counts will be **strictly** enforced. A 10% leeway is given, but students are advised not to use this as it is intended to allow for any errors in their word counting.

Referencing: Any consistent referencing method is acceptable as long as pinpoint referencing is used. That is, the specific pages (or paragraphs, sections, clauses, etc) are contained in the reference. Also, a complete bibliography must be included.

The preferred method is adherence to the Australian Guide to Legal Citation. Students intending to go on to further law units are advised to use the guide, as some law units may require it. It can be purchased from the Co-op Bookshop or can be ordered or downloaded (free of charge) here: <<http://mulr.law.unimelb.edu.au/aglc.asp>>.

Submission: Assignments should be submitted in one of four ways:

- 1) By E-Assignment submission. Instructions can be found here: <<http://www.coe.mq.edu.au/coeassign.html>>
- 2) By mail. Assignments may be sent by Australia Post, or by courier, but must be dispatched by the due date in the COE folder provided to the Centre for Open Education. The cover of the assignment should be date stamped by the post office before dispatch by mail indicating the date of dispatch.
- 3) By email. Students may email assignments on the submission date to the Law PG box which will record date, time and name of each email and will provide a backup copy to the Division. Email to: postgrad@law.mq.edu.au.
- 4) By hand. Students should lodge their assignments in the law postgraduate assignment box in W3A room 341. Do not push assignments under your tutor's door or post them in your tutor's pigeon hole in the Law Division's mail room. These methods of delivery are not secure.

Regardless of which method is used it is recommended that **an electronic copy of the assignment be emailed to the unit convener**. Also, students are

advised to always make and retain a backup copy of all pieces of work submitted.

Late Submission: Unless an extension of time is granted late submissions will be penalized along the following scheme: **2% per working day late** up to two weeks (10 working days), **after two weeks assignments will receive zero marks.**

An extension of time will be granted if proof can be presented of an **unexpected** event that interfered with the student's ability to submit. Note that the event must be unexpected. If a student knows that an event is likely to interfere with their work (e.g. a frequently reoccurring illness, a planned surgical procedure, or a likely family commitment) they must plan for this in their work schedule. A request for an extension must be made before the due date if possible, and at the soonest possible date if not.

10. RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OBJECTIVES

The two participation assessments and the readings essay are intended to assess students' understanding of the areas outlined in the "Learning Objectives" section above. These assessments allow students to demonstrate this understanding by the ability to restate course content in their own words and to apply that knowledge to a range of issues.

The research assignment will provide students with the opportunity to undertake a significant piece of research and think critically about the theoretical and policy issues relevant to the role of local government. This enables students to demonstrate their ability to build on their understanding of the above areas to pursue an in-depth investigation of aspects of these and other areas relating to local government law.

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.

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

Week	Unit Topic	Unit Events
1 4 Aug	1 - Local Government as the Third Tier of Government	Term starts
2 11 Aug	2 - Powers and Functions of Local Government in NSW	
3 18 Aug	3 - Local Government Finances	
4 25 Aug	4 - Alternative Models for Local Governance and Delivery of Services	
5 1 Sept	5 - Environmental Responsibilities of Local Government	Readings Essay Due (5 Sept)
6 8 Sept	6 - Council Boundaries and Structure	
7 15 Sept	7 - Councilors and Employees	On-campus session (18-19 Sept)
22 Sept		Mid-semester break
29 Sept		
8 6 Oct	8 - Council Decision Making	Essay Outline Due (7 Oct)
9 13 Oct	9 - Accountability Mechanisms & Supervision under the Local Government Act	
10 20 Oct	10 - External Accountability Mechanisms and Supervision	
11 27 Oct		Research Essay Due (31 Oct)
12 3 Nov	11- Liability of Councils	
13 10 Nov		End of term

ESSAY COVER SHEET

<p>Please attach cover sheet to every assignment</p>	<p>Surname</p> <p>Given Names</p> <p><i>The student's name may be filled out by the student. If the name is not filled out by the student could the marker please complete this before returning to the Essay Collection Office. Thankyou!</i></p> <p>Student Number</p>
<p>Tutor's Name</p> <p>Tutorial Time</p> <p>Date Due</p> <p>Unit Number LAW</p>	<p>Essay Title</p> <p>.....</p> <p>.....</p>
<p>"I certify that I am aware of the University's policy on plagiarism and that this assignment meets those requirements and has not been previously submitted for assessment in any other course of study"</p> <p>Signed</p>	
<p>MARKER'S COMMENTS</p>	

