WORLD PARKS CONGRESS

Mock International Case on Marine Issues

As part of the World Parks Congress being held at Sydney Olympic Park in November 2014 the Australian Centre for Climate and Environmental Law at Sydney Law School and the University of Sydney Institute of Marine Science are conducting a mock case on marine issues as part of the IUCN Environmental Law Programme series of Congress events. Based on a hypothetical request for an Advisory Opinion from the ICJ, the case will examine the legal and scientific issues concerning the protection of the world’s most iconic reefs from human-induced climate change and ocean acidification. The case will be heard by Justice Nicola Pain (NSW Land and Environment Court), Justice Rachel Pepper (NSW Land and Environment Court) and Associate Professor Tim Stephens (Sydney Law School).

The advocates will be senior students from Sydney Law School (Elizabeth Pearson, Eric Shi and John Tsaousidis). Expert evidence will be given by Dr Paul Marshall (University of Queensland), a leading expert in applied conservation science and a specialist on the impacts of climate change on coral reefs.

This event is proudly presented by: the Australian Centre for Climate and Environmental Law at Sydney Law School, the University of Sydney Institute for Marine Science, the IUCN World Commission on Environmental Law and the IUCN World Commission for Protected Areas - Marine Specialist Group. The ACT Office of the Commissioner for Sustainability and the Environment and the Law Council of Australia’s Australian Environment and Planning Law Group support the event.

Tuesday, 18 November 2014
6.00pm to 8:00pm
Dome Theatrette, the Dome,
Corner Sydney Showground and
Murray Rose Avenue, Sydney
Olympic Park
For more information email lps@lawcouncil.asn.au or visit http://worldparkscongress.org/programme/programme.html
NEW ENVIRONMENTAL LAW APPOINTMENTS

PROFESSOR ROSEMARY LYSTER, DIRECTOR OF THE AUSTRALIAN CENTRE FOR CLIMATE AND ENVIRONMENTAL LAW (ACCEL), IS DELIGHTED TO ANNOUNCE THE APPOINTMENT OF TWO NEW MEMBERS OF THE ENVIRONMENTAL LAW TEAM AT SYDNEY LAW SCHOOL.

Associate Professor Ed Couzens

Ed Couzens has been appointed Associate Professor of Environmental Law at Sydney Law School and will commence in March 2015. Ed holds a BA Hons LLB (Witwatersrand), LLM Environmental Law (Natal & Nottingham), and a PhD (KwaZulu Natal University). He is currently an Associate Professor at the Faculty of Law at KwaZulu-Natal University where, since 2001, he has been teaching undergraduate Environmental Law as well as postgraduate courses on International Environmental Law; Land Use & Planning Law; Natural Resources Law; Ocean & Coastal Law; and Pollution Control Law.

Ed has been recognized as an ‘Established Researcher’ by South Africa’s National Research Foundation for the years 2013-2018. He has taught on the University of Eastern Finland – United Nations Environment Programme Course on Multilateral Environmental Agreements (www.uef.fi/unep) every year since 2004; and will be the IUCN AEL Visiting Scholar at the Faculty of Law, University of Ottawa, in January 2015, to teach a course on ‘international wildlife and conservation law’. He has been an assistant editor/editor on the South African Journal of Environmental Law and Policy since 2001; and a co-editor on the University of Eastern Finland – United Nations Environment Programme Review of International Environmental Law-making and Diplomacy since 2006. He has attended more than 40 conferences, presenting papers at most, and will attend his fourth Meeting of the International Whaling Commission in September 2014 (having attended in 2007, 2011 and 2012 as a member of the South African delegation).

Ms Kate Owens

Kate Owens has been appointed a Lecturer at Sydney Law School and will be teaching in the Environmental Law program. Kate is currently a PhD candidate at Sydney Law School and her doctoral research examines the role of law in market-based water allocation frameworks in Alberta, Colorado, Oregon and the Murray-Darling Basin. Kate holds a Master of Energy and Environmental Law from Katholieke Universiteit in Leuven, Belgium (summa cum laude with the congratulations of the Board of Examiners), and a Bachelor of Laws (First Class Honours) and Bachelor of Arts from the University of Canterbury in New Zealand. Prior to commencing her candidature, Kate practised for a number of years in State Government and leading commercial firms in Australia and New Zealand, providing advice and litigation services in relation to a range of environmental, planning, administrative and public law matters.

Kate’s research interests include environmental markets, water law, Australian and international environmental law, planning law, and resources law. She has lectured in Australian environmental law, international environmental law, human rights and the environment, and pollution control at Sydney Law School.
Associate Professor Tim Stephens has been awarded an Australian Research Council (ARC) Research Fellowship, one of only three that were successful in the discipline of Law for 2014.

Associate Professor Stephens explains how his project will examine the way international law deals with environmental systems in the Anthropocene: the current geological epoch defined by human interference with Earth’s biophysical systems:

‘Humanity faces a cascade of major threats this century as we play God with the global environment. Indeed so enormous is human interference with the environment that geologists now call our era the Anthropocene, signalling that humanity is leaving a mark in virtually every aspect of the environment. International environmental law has developed since the 1970s to deal with all manner of problems from ozone depletion to marine pollution to species protection.

Taking insights from Earth systems science, my research will seek to understand whether we can be bolder in our international environmental law-making. Can we move beyond just dealing with specific problems to safeguard whole environmental systems and spheres in their totality so that human civilisation can survive and prosper in the coming centuries? Or is the idea of a ‘good Anthropocene’ just a fantasy?’

Associate Professor Stephens’ project will commence in 2015. The ARC Research Fellowships run for four years and they aim to retain Australia’s best researchers by offering opportunities to conduct high-level research in Australia.


Visiting Scholar, Trinity College Cambridge

Professor Rosemary Lyster was appointed a Visiting scholar to Trinity College, Cambridge in July and August 2014 during which time she conducted research for her new book Climate Justice and Disaster Law to be published by Cambridge University Press in 2015.
In 2010, Professor Rosemary lyster, Associate Professor Tim Stephens, Associate Professor Simon Butt and Professor Elisabeth Peden were awarded an ARC Discovery Project grant to investigate the legal implications of Reducing Emissions from Deforestation and Degradation (REDD+) in Indonesia. The final report entitled Prospects for REDD+ in Indonesia was released in 2014. The following extract from the report provides a summary of the research outcomes:

“As this Report demonstrates, there are a number of pressing legal issues associated with REDD+ in Indonesia that need greater clarification and resolution before it can be said that REDD+ schemes are being, or will be, implemented in an equitable manner, or even consistently with the many safeguards which are now required under the UNFCCC. The focus of this Report is on a number of legal institutions which are necessary for ensuring the legitimacy of REDD+, including how the rights of all stakeholders, but particularly indigenous peoples and local communities, will be protected. These rights include the rights to: participate in decision-making around REDD+ schemes; have access to information about the establishment, or proposed establishment, of REDD+ projects in Indonesia; and access to legal remedies to protect their rights”.

The research has also resulted in a new book Simon Butt, Rosemary Lyster and Tim Stephens Climate Change and Forest Governance: Lessons from Indonesia (Routledge: forthcoming in 2014).

Changes to Editorship of Asia Pacific Journal of Environmental Law

The Asia Pacific Journal of Environmental Law is an international, annual journal published by ACCEL. Volume 17 (2014) was released in November 2014 and features articles on: Language, traditional ecological knowledge and biological diversity; Environmental Management in China; Transboundary Biodiversity Conservation in Borneo; Emissions Trading Schemes; Carbon Trading; REDD+ in Papua New Guinea; Comments on Environmental Justice, and Environmental Rule of Law; Case Notes on The Godavarman Case in India; and a Country Report on Environmental Protection Law of China.

In 2015, Assoc. Professor Tim Stephens will continue as Editor-in-Chief of APJEL but will be assisted by two new associate Editors with expertise in the region - Dr Saiful Karim, Senior Lecturer, Faculty of Law Queensland University of Technology; and Manuel Solis, Teaching Fellow at the Adelaide Law School of The University of Adelaide.

Dr Karim specializes in International and comparative environmental law, marine environmental law, law of the sea, the role of national and international judicial institutions in the international legal system, maritime security, piracy and maritime terrorism, regional legal integration and environmental governance in the Asia-Pacific, climate change law, Asian legal studies.

Manuel Solis is a Sydney Law School Masters of Environmental Law Graduate 2004 graduating first in the cohort that year. This year he received the 2014 IUCNAEL Best Graduate Student Paper Award for his paper entitled ‘Human Rights versus Human Needs: Debating the Language of Universal Access to Modern Energy Services’.

CALL FOR PAPERS

2014 Publications by ACCEL Members

Simon Butt

Books

Book Chapters

Refereed Journal Articles

Andrew Edgar

Book Chapters

Rosemary Lyster

Book

Book Chapters

Refereed Journal Articles

Kate Owens

Non-refereed articles

Tim Stephens

Books

Book Chapters

Refereed Journal Articles

Media articles
POSTGRADUATE RESEARCH

Postgraduate Co-tutelle with Tilburg Law School

In October 2014, under Sydney Law School’s Co-tutelle on postgraduate research with Tilburg University in the Netherlands, ACCEL welcomes PhD researcher Mariya Gromilova. Her research focuses on ‘People displaced by climate change: the issue of protection and conceptualization under international law’ and she will be linking climate change law, law on adaptation and human rights law. Under the supervision of Professor Rosemary Lyster, Mariya will be visiting ACCEL for a period of 3 months when she will examine migration policies and existing migration schemes in Australia, and analyse whether these policies can be used by Pacific Islanders who are induced to migrate due to climate change.

Sydney Law School PhD candidate, Elena Aydos has recently spent five months of her PhD candidature conducting research at Tilburg University under the supervision of Professor Panos Delimatsis. Elena’s thesis is entitled ‘The Assistance to Emissions-Intensive and Trade-Exposed Sectors in the EU, NZ and Australia: Focus on Linking of ETS and WTO Issues’.

Both Elena and Mariya will be awarded joint PhD degrees from the University of Sydney and Tilburg University.

Award of Doctor of Juridical Studies

ACCEL would like to congratulate Rizal Abdul Kadir who was awarded a Doctor of Juridical Studies (SJD) at Sydney Law School’s November 2013 Graduation Ceremony at the University of Sydney. His supervisors were Associate Professor Tim Stephens and Professor Joellen Riley. ACCEL would like to congratulate Rizal Kadir for his published thesis titled ‘Joint Development and the Law of the Sea’.

Arctic Ice
Climate and Disaster Law: A World First (July 2014)

In July 2014, Professor Rosemary Lyster offered the world’s first postgraduate Climate Disaster Law unit of study. The unit was taught at Clare College, University of Cambridge under the auspices of the Sydney Law School in Europe program.

While other Law Schools have begun to teach units in Disaster or Emergency Management Law, this is the first to focus squarely on extreme weather events and disasters, especially those influenced by climate change.

Professor Rosemary Lyster, designed the unit to focus first on the latest scientific reports provided by the Intergovernmental Panel on Climate Change and then the role of law in all stages of disaster risk reduction and management including: mitigating the impacts of disasters and building resilience; emergency management during the disaster; post-disaster recovery and reconstruction; and victim compensation.

Notions of climate justice provided the background context to these discussions.

The question of victim compensation was addressed by Professor Michael Faure from Maastricht University who is a leading authority on this topic in a range of different disaster contexts. Professor Jean Venables

New Technologies, Risk and Environmental Law (September 2014)

Professor Han Somsen, Vice Dean of Tilburg School of Law, visited Sydney Law School to co-teach the postgraduate unit ‘New Technologies, Risk and Environmental Law’ in September 2014. Key questions that are elaborated upon in this unit include: What is regulation, who are the regulators and who are the regulatees?; what is the ideal-type of regulatory environment?; how do regulators engage with risk?: the precautionary principle; how are ideas of the possibility of impending catastrophe likely to affect the balance between legitimacy and effectiveness? Ethical and human rights principles are also discussed. The technologies analysed include GMOs, chemicals and geoengineering. A comparative analysis of how these technologies are regulated in the European Union, the United States and Australia is included.
CONFERENCES & SEMINARS

Rapid Response Seminar: The Judgment in the Whaling in the Antarctic Case (3 April 2014)

In March the International Court of Justice decided the Whaling in the Antarctic Case between Australia and Japan. The Court found that Japan’s special permit whaling programme in the Southern Ocean near Antarctica were not for the purposes of scientific research under the Whaling Convention, and was also contrary to the moratorium on commercial whaling in place since the 1980s. Following the judgment the Sydney Centre for International Law and Australian Centre for Climate and Environmental Law held a 'Rapid Response Seminar’ to provide an overview of the judgment and examine the implications of the case for future whaling activities in the Southern Ocean and elsewhere. Associate Professor Tim Stephens (Sydney Law School) discussed the lead up to the litigation, including the work of international legal panels of experts convened by the International Fund for Animal Welfare, and the main arguments of the parties. Don Rothwell (ANU College of Law) examined the judgment itself, assessing the key findings of the court and the potential for future special permit whaling consistent with the judgment.

2014 IPCC Fifth Assessment Report (1 April 2014)

ACCEL co-hosted a public lecture with the Sydney Environment Institute to highlight the conclusions of the Fifth Assessment Report of the International Panel on Climate Change (IPCC) on Impacts, Adaptation and Vulnerability. The implications of this publication were discussed by a panel including:

Professor Lesley Hughes of Australia’s newly formed Climate Council is a lead author for the UN’s IPCC Fourth and Fifth Assessment Reports. She is an ecologist in the Department of Biological Sciences at Macquarie University and an expert on the impact of climate change on species and ecosystems.

John Connor is the CEO of the Climate Institute, an independent research organisation that highlights the impacts of climate change. The Climate Institute has examined impacts and vulnerability in terms of community wellbeing and health as well as the risks to interdependent infrastructure. It has called for greater assessment of the risks of 2 and 4 degree warming scenarios.

Associate Professor Dale Dominy-Howes School of Geosciences, the University of Sydney, is a global leader in natural hazards and disaster reduction. His research focuses on enhancing community resilience, reducing losses from natural disasters and developing appropriate disaster risk reduction strategies. Dale addressed the report’s focus on adaptation and vulnerability.

Professor Rosemary Lyster, Director of the ACCEL and expert in Climate and Environmental Law, discussed the international and domestic legal implications of climate change impacts, adaptation and vulnerability in the context of the IPCC’s findings.

Professor David Schlosberg (Chair) is a Professor in Environmental Politics at the University of Sydney and the co-director of the newly established Sydney Environment Institute. He is known internationally for his work in environmental politics, environmental movements, and political theory. David chaired the panel of experts.
Climate Change: Managing the Risks of Extreme Events and Disasters (5 December 2013)

On 5 December 2013, Professor Chris Field from the Carnegie Institution for Science at Stanford University delivered a 2013 Sydney Law School Distinguished Speaker lecture on ‘Climate Change: Managing the Risks of Extreme Events and Disasters’. The lecture coincided with the release of the Intergovernmental Panel on Climate Change’s Fifth Assessment Reports in 2013 and 2014. Professor Field co-chairs the IPCC’s Working Group II on Impacts, Adaptation and Vulnerability. Professor Field’s essential message was that:

“It is really pretty simple. Effective investments in adaptation can help build resilient societies with vibrant economies and healthy environments at the same time that they decrease risks of loss from climate change.”

In his assessment on how countries, cities, firms, and individuals should protect themselves against future extreme weather disasters, Professor Field pointed to the latest IPCC Report and explained the key challenge of climate change as “one of managing risks”. “Mitigating to reduce the risks and adapting to the risks cannot be avoided; both provide many attractive, ‘low-regrets’ opportunities with multiple benefits,” he said. “Effective action on climate change can be cost effective, especially if it is started early and undertaken worldwide.”

In addition to being at continuing or growing risk of severe droughts, heatwaves, wildfires and flooding, Australia faces particular biological threats to the Great Barrier Reef from warming and ocean acidification, as well as rising sea levels and severe storms on our coastlines, according to Professor Field.

Despite being at the forefront of some climate change adaptation measures, including the Murray-Darling Basin planning to address water sustainability, Australia lags behind in other areas, as reflected in the country’s recent drop in the Climate Change Performance Index. “There are serious gaps in adaptation. These gaps can be a consequence of incomplete information, distorted decision-making, or skewed development,” he said. “All countries have important opportunities to step up their leadership on the climate change issue.”

Professor Rosemary Lyster, Director of ACCEL, chaired the event and Professor Lesley Hughes, Macquarie University, member of the Climate Council and an IPCC Working Group II (Australasia) Lead Author acted as commentator.
IUCN

International Union for Conservation of Nature Academy of Environmental Law (IUCNAEL) 2014 Colloquium, Spain

ACCEL continues to be a member of the IUCN Academy of Environmental Law which has over 100 institutional members, a range of teaching initiatives and research projects with universities around the world. Earlier this year Professor Rosemary Lyster attended the 12th IUCNAEL Colloquium, hosted by Universitat Rovira I Virgili in Tarragona, Spain, from 30 June to 5 July 2014. The theme was ‘Energy for a Fair Society on a Safe Planet’. Professor Lyster presented two papers – one on climate displaced persons and another on regulating coal seam gas in Australia. ACCEL was delighted that Manuel Solis, a former Master of Environmental Law student at Sydney Law School, was awarded the 2014 IUCNAEL Best Graduate Student Paper Award at the conference dinner. He is currently an Adelaide Law School PhD Student and is being supervised by Professor Adrian Bradbrook and Associate Professor Paul Babie.


ACCEL also congratulates Manuel on his award by the South Australian Governor of the prestigious 2014 Governor’s International Student Postgraduate Excellence Award.