



# Annual Report 2015

**CREEL**

Centre for Resources, Energy  
and Environmental Law



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MELBOURNE LAW SCHOOL

# CREEL Annual Report 2015

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# Director's Report

## Professor Michael Crommelin AO

Laws relating to natural resources, energy and the environment once again figured prominently in public policy debates in 2015 in Australia and overseas. Internationally, much attention was directed to the securing of the Paris Agreement under the *United Nations Convention on Climate Change* in December 2015. Within Australia, a number of significant changes were made to Commonwealth legislation in the field. Several amendment Bills were introduced into Federal Parliament. The *Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015* was among the most controversial. The Victorian Government was also very active in its review of legislation in 2015.

CREEL made a significant contribution to public debate and legal changes, through its research, engagement and teaching activities on a broad range of matters including climate change, energy transitions, water law, indigenous rights to land and resources, authority of the Commonwealth, States and Territories under the Australian Constitution, and international trade and investment in energy and natural resources. Academic staff participated in several submissions to government and other agencies in 2015.

In addition, 2015 was a busy year with the publication of books, articles and papers on a wide range of topics. CREEL members and research higher degree students presented the findings of their research in diverse forums, including conferences, seminars and meetings in Australia and overseas. CREEL continues to be fortunate in having a group of close knit, enthusiastic and highly-skilled doctoral candidates who enrich the intellectual life of the Centre. Many CREEL staff work with these candidates through dedicated supervision of their research projects. At the same time there has been continued growth of the teaching programs in the Environmental Law and Energy and Resources Law in the Melbourne Law Masters program, and an increasing number of subjects in the Melbourne JD and University course subjects. International students from around the globe participate in the Melbourne Law Masters program. Together with their Australian counterparts, they contribute to the vibrancy and international profile of this program.

During 2015, CREEL was fortunate to host several visits by prominent international scholars and legal professionals and to have them present seminars and workshops. Within the University, CREEL was an active participant in the Melbourne Sustainable Society Institute, the Melbourne Energy Institute and the Office for Environmental Programs. CREEL maintained its commitment to interdisciplinary research and teaching and its strong community engagement. It also continued to develop its networks with an array of international institutes and agencies, as well as research centres and professional associations in Australia.

Details of these many and varied activities are to be found in the pages of the Annual Report.

Together with my academic colleagues in CREEL, I acknowledge with gratitude the contribution made of many professional staff within the Law School, and in particular, the CREEL Centre Administrators, to CREEL's achievements this year. It has been my privilege and pleasure to serve as Director. I also extend a very warm welcome back to the Law School to my colleague Professor Lee Godden who resumes as Director of CREEL in 2016.



**Professor Michael Crommelin AO**  
**Zelman Cowen Professor of Law**  
**Melbourne Law School**

# About CREEL

The Centre for Resources, Energy and Environmental Law (CREEL) was established in 1986. Until 1996 it was known as the Centre for Natural Resources Law, and the teaching program was focused on laws relating to mining, petroleum and water resources; the legal structure and financing of major resources projects; and some aspects of environmental regulation.

In 1996 substantial changes were made to extend the program. Subjects were added to cover contemporary issues of national and international importance. These include production and distribution of energy; development of infrastructure; environmental impact of energy, resources and infrastructure projects; and indigenous rights over land and waters. Studies focus upon the inter-relationship of government policies, legal and regulatory regimes and administrative practices.

Many of the subjects are highly relevant to international students as well as Australian students.

The increased scope of the graduate teaching program is also reflected in CREEL's research, publishing, seminars and related activities.

## Purposes and Objectives

CREEL's aims are as follows:

To promote research, teaching and publication on the legal, regulatory and policy frameworks that engage with:

- the production and distribution of energy, including consideration of climate change regulation;
- the sustainable development of natural resources;
- the protection of the environment and the promotion of ecologically sustainable development;
- the planning for, and provision of, infrastructure in urban areas and infrastructure associated with energy and resource development; and
- the recognition and protection of Indigenous rights and interests in land and resources.

To engage in these activities with respect to contemporary developments and issues in Australia, Asia/Pacific and other selected regions.

To extend the Law School's specialised collection of research and teaching materials relating to energy, natural resources, environmental law and native title.

To strengthen existing links and establish new links with other centres in Australia and overseas engaged in equivalent activities.

To encourage professionals from industry, investment institutions, government and universities in Australia and overseas to participate in the Centre's activities.



# CREEL Centre Directors

## Centre Director

### **Professor Michael Crommelin AO**

Michael Crommelin is Zelman Cowen Professor of Law, a position he has held since 1985. Michael was previously Dean of Melbourne Law School, a position he held from 1989 to 2002, and from 2003 to 2007 and in 2010. He has held visiting academic appointments in Canada, the USA, the UK, France and Norway. He was a founding member of AMPLA Limited (the Australian energy and resources law association) and served as its president in 1985-6. He was chair of the Academic Advisory Group of the International Bar Association's Section on Energy and Resources Law from 1987 to 1990. He has been a member of the American Law Institute since 1998. His current teaching and research interests include energy and resources law, constitutional law and comparative law.



## Centre Associate Directors

### **Professor Lee Godden**

Professor Godden researches and teaches within the Melbourne Law School and was appointed to the ALRC as a Part-time Commissioner in July 2013, in charge of the Inquiry into the Native Title Act 1993. She was Director of the Centre for Resources, Energy and Environmental Law from 2008 until 2013. Preceding that she held a joint appointment as Director of the Office for Environmental Programs. Professor Godden's research interests include environmental law, natural resources management, property law and Indigenous peoples' land rights. The impact of her work extends beyond Australia with comparative research on environmental law and sustainability, property law and resource trading regimes, water law resources and Indigenous land rights issues, in countries as diverse as Canada, New Zealand, UK, South Africa, and the Pacific.



### **Professor Jacqueline Peel**

Jacqueline Peel holds the degrees of Bachelor of Science and Bachelor of Laws (Hon I) from the University of Queensland, a Master of Laws from New York University where she was a Fulbright scholar, and a PhD from the University of Melbourne. Professor Peel's established research interests are in the areas of environmental law (domestic and international), climate change law, risk regulation and the role of science. Professor Peel current research focuses on questions of climate change litigation and governance, including adaptation measures. She holds an ARC Discovery Project grant for a project on US and Australian climate change litigation which she is undertaking with Professor Hari Osofsky of the University of Minnesota Law School.



# CREEL Centre Members

## Professor Sundhya Pahuja

Sundhya Pahuja is Director of the Law and Development Research Program at Melbourne Law School's Institute for International Law and the Humanities (IILAH). Her prize-winning research focuses on the interaction between the public and economic dimensions of international law as they affect North–South relations. Sundhya has worked, studied and taught in Europe, the United Kingdom, Canada and the United States. She serves as core faculty at the Harvard Law School Institute for Global Law and Policy Workshop, and concurrently holds a Research Chair in Law at SOAS, University of London. She speaks English, French, Italian and Hindi.



## Associate Professor Mark Burton

For more than 20 years Mark Burton has worked in the field of taxation law: in private practice and also as an academic. Mark has taught extensively in the taxation law field at undergraduate, graduate and postgraduate levels. Mark has undertaken consultancies with the Australian Taxation Office and also with the Australian National Audit Office.

Mark's research and scholarship on tax matters have been published both within Australia and internationally. This research spans technical tax issues, the theory and practice of tax administration, the ethical aspect of taxation law, tax policy and the tax legislative process. Mark is co-author of *Understanding Taxation Law*, LexisNexis, 2013 and *Tax Expenditure Management – A Critical Assessment*, Cambridge University Press, 2013. Mark is currently working on a monograph manuscript with respect to aspects of the philosophy of taxation: empirical, political and interpretive. Mark completed his PhD(Law) at the Australian National University, and his doctoral dissertation examined the theory, history and practice of interpreting tax legislation.



## Associate Professor Jürgen Kurtz

Jürgen Kurtz is the Director of the International Investment Law Program of the Institute for International Law and the Humanities (IILAH) at Melbourne Law School. He researches and teaches in international economic law. Jürgen's research has been cited in international arbitral jurisprudence and he acts as a consultant to governmental and intergovernmental agencies, including the United Nations and the World Bank. Jürgen is a Global Faculty Member at the Academy of International Trade and Investment Law in Macau, Universidade Católica Law School in Lisbon, Universitat de Barcelona in Spain and the Centre for Transnational Legal Studies in London. In 2010, he was appointed Fernand Braudel Senior Fellow at the European University Institute of Florence.



### **Associate Professor Margaret Young**

Associate Professor Margaret Young is the author of *Trading Fish, Saving Fish: The Interaction between Regimes in International Law* (Cambridge University Press, 2011), which was awarded the International Union for Conservation of Nature (IUCN) Academy of Environmental Law Junior Scholar Prize in 2012. Her edited collection *Regime Interaction in International Law: Facing Fragmentation* (Cambridge University Press, 2012) includes contributions from leading international, comparative and constitutional law scholars and is based on the conference she convened at the University of Cambridge in 2009 on Regime Interaction in International Law: Theoretical and Practical Challenges. Dr Young holds a PhD and an LLM from the University of Cambridge and a BA/LLB (Hons) from the University of Melbourne and has been a Visiting Scholar at Columbia Law School. She has worked at the World Trade Organisation (Appellate Body Secretariat) and the United Nations International Law Commission and is a former associate to the Chief Justice of the Federal Court of Australia.



### **Associate Professor Kirsty Gover**

Kirsty Gover is Associate Professor at Melbourne Law School. Her research addresses the law, policy and political theory of indigenous rights. Dr Gover is the author of *Tribal Constitutionalism: States, Tribes and the Governance of Membership* (Oxford University Press, 2010) and is working on a book entitled *When Tribalism Meets Liberalism: Political Theory and International Law* (Oxford University Press), examining the ways in which indigenous self-governance influences the development of international law and international legal theory by altering the behaviour of settler states. Dr Gover is a graduate of the New York University JSD Doctoral Program, where she was an Institute for International Law and Justice Graduate Scholar and New Zealand Top Achiever Doctoral Fellow.



### **Mr Brad Jessup**

Brad Jessup is a human geographer and an environmental law specialist. Brad's work crosses disciplines in the legal geography tradition. He draws on political theories, his knowledge of environmental law processes and case study examples of law in society. Brad is especially interested in the law of place, perceptions and discourses of law, and the human and environmental experience of harm and the role of the law. He is the co-author with Professor Kim Rubenstein of the edited collection *Environmental Discourses in Public and International Law* published by Cambridge University Press in 2012 and an editor of the Melbourne Law School High Court blog. Brad is a graduate of Monash University and Cambridge University and a former practitioner with five years' experience. He has been a visiting scholar at the University of California, Berkeley in the United States and North-West University – Potcheroom in South Africa. Brad's principal research area is environmental justice and the exploration of environmental legal conflict. He also has research expertise in Vietnamese environmental laws, environmental rights, planning and risk, sustainability sharing and the city, and marine protected areas.



## **Centre Administrator**

### **Ms Cindy Halliwell**

Cindy Halliwell joined the Melbourne Law School in November 2015. Prior to this, she worked at the Faculty of Science for the Centre for Aquatic Pollution Identification and Management (CAPIM), since 2010. Cindy holds a Bachelor of Arts in Tourism, a Graduate Diploma in Business Administration and is currently undertaking a Bachelor of Laws.

# CREEL Advisory Board

## **Associate Professor Pieter Badenhorst (Deakin University)**

Pieter Badenhorst is currently an Associate Professor of Law at Deakin University. He was previously professor of Law at the Nelson Mandela Metropolitan University in Port Elizabeth, South Africa. Pieter is admitted as an attorney and notary of the High Court of South Africa. Since 1985 he is author and co-author of 97 articles, notes and case discussions. Pieter is author and co-author of 4 books on South African Property law and Mining law. This includes the current Mineral and Petroleum Law of South Africa, which is a commentary on the new South African Mineral lawsystem.

## **Elisa De Wit (Partner, Norton Rose)**

Elisa de Wit is a partner in the Melbourne office of Norton Rose Australia, a leading international law firm. She leads the environment group of the Melbourne office and heads the Australian climate change practice. With over 20 years of experience, Elisa's practice covers both environmental and climate change matters, and she has practiced in three Australian jurisdictions and the United Kingdom. A regular presenter and author of articles on climate change and emissions trading, Elisa is also editor of Norton Rose Australia's environment and climate change newsletter, "Legally Green". Elisa was recently named as a "leading lawyer" in the Australasian Legal Business Guide for Environmental Law.

## **Professor Roz Hansen (Managing Director, Hansen Consulting)**

Roz Hansen is Managing Director of Hansen Partnership being a multi award winning company offering professional consultancy services in urban planning, urban design and landscape architecture. Roz is a highly skilled urban planner with more than 30 years of experience in a diverse range of projects in Australia and overseas. Roz offers a sound understanding of planning and development issues at the local, national and international levels. Her strong leadership qualities, coupled with her excellent communication skills and capacity to think in an innovative and creative manner, have been applied in collaborative projects in Australia and overseas. Roz regularly appears as an expert witness at VCAT and Planning Panels Victoria. A recipient of a Centenary Medal from the Federal Government and her on-going appointment as an Adjunct Professor at Deakin University since 1995 is testimony of Roz's wealth of experience in the planning arena.

## **Ian Havercroft (Global Lead – Legal and Regulatory, Global CCS Institute)**

Ian Havercroft is the Senior Adviser – Legal and Regulatory at the Global CCS Institute, and is based in Melbourne, Australia. He was previously an academic at University College London's Faculty of Laws, where he taught on the environmental law programme and undertook contracted research for a range of organisations, including governments and industry. He co-founded and managed the UCL Carbon Capture Legal Programme between 2007 and 2010.

Ian has acted as an expert reviewer or an adviser to a number of organisations on CCS law and regulation; these include the International Energy Agency and the IEA Greenhouse Gas R&D Programme. He holds undergraduate and postgraduate degrees in law and in 2012, was appointed as an Honorary Visiting Senior Research Fellow at University College London's Faculty of Laws.



### **Professor Ray Ison (Monash and Open University, UK)**

As Professor of Systems (UK Open University; 1994 - present) Ray has led or facilitated the development of new teaching programs (MSc's in Environmental Decision Making, SystemsThinking in Practice, Information Systems and a undergraduate Diploma in Systems Practice) and established the Open Systems Research Group. He was Head of the Systems Department (1995-8; 25 academic staff) then from 2000-04 he successfully coordinated a major interdisciplinary 5th Framework Program (30 researchers, 6 countries) researching social learning for sustainable catchment management as well as running an EPSRC funded Systems Practice for Managing Complexity Network. From 2002-7 the Environment Agency (England & Wales) funded research to apply social learning to implementation of the European Water FrameworkDirective.

In September 2008 he moved to 0.3 time at the Open University (OU) and a 0.7 Professorship at Monash (Systems for Sustainability) where he has developed a Systemic and Adaptive Governance Research program within Monash Sustainability Institute and the School of Geography and Environmental Science.

### **Sam Johnston (Senior Research Fellow, United Nations University)**

Sam Johnston is a Senior Research Fellow at the United Nations University Institute of Advanced Studies – a policy think tank for the United Nations based in Japan. His principal responsibilities are to provide strategic guidance to the Director regarding the research priorities of the Institute, develop new research activities for the Institute and assist with fundraising efforts.

His research interests include International Environmental Law, Governance of International Spaces, International Regulation of Biotechnology, Law of the Sea and Antarctica. In 2011 he taught and was the coordinator of the International Environmental Law Masters Course offered by the Faculty. He has raised over \$10m in research funding from governments, international organizations and philanthropic organizations. Johnston has degrees in chemistry and law and is a qualified lawyer in the Supreme Court of Victoria, Australia.

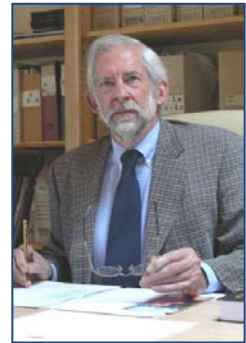
# EVENTS

## Seminar: 17 March

### ***After the Scottish Referendum: The “Enduring Settlement” and its Implications for the Energy Industries.***

***Presented by Professor Terence Daintith.***

*Professorial Fellow at the Institute of Advanced Legal Studies, University of London.*



*Co-hosted by the Centre for Resources, Energy and Environmental Law (CREEL) and the Centre for Comparative Constitutional Studies (CCCS).*

#### **Abstract**

Despite the rejection of independence, the Scottish referendum has led to proposals for substantial enlargement of the powers devolved to the Scottish government, including control of onshore oil and gas. This paper looks at the implications and possible further development of the devolution proposals in the context of the unstable political situation that is expected to follow from the 2015 UK General Election.

#### **Speaker**

***Terence Daintith*** is a Professorial Fellow at the Institute of Advanced Legal Studies, University of London, where he was a Director from 1988 – 1995. Before that he taught at the Universities of California (Berkeley), Edinburgh and Dundee and was a research professor at the European University Institute in Florence, Italy. His main research interests are in the fields of oil and gas law, regulation and constitutional law.

He is co-editor of *Daintith, Willoughby and Hill’s multi-volume United Kingdom Oil and Gas Law*, the basic reference in the field, and was founding editor of the *Journal of Energy and Natural Resources Law*. From 1994 – 2002 he was Dean of the University of London’s School of Advanced Study, grouping its research institutes in the humanities and social sciences, and he now teaches oil and gas law at the University of Western Australia and energy law and regulation at Melbourne.

## Seminar: 23 July

### ***The Urgenda Climate Case win against the Dutch Government: How citizens win and what it means for Australians.***

***Presented by Marjan Minnesma.***

*Co-hosted by the Centre for Resources, Energy and Environmental Law (CREEL) and Environmental Justice Australia.*

#### **Abstract**

The recent Urgenda case in the Netherlands made headlines when the Hague District Court ordered the Dutch government to adopt and take action to ensure a minimum national reduction in greenhouse gas emissions of 25% below 1990 levels by 2020. The case has revitalised interest

in the possibilities for using the courts to force governments to adopt strong climate change mitigation measures.

The result in the Urgenda case also comes just a few months before governments meet in Paris with the aim of finalising a new, ambitious climate change agreement for the period 2020 onwards. This event, co-hosted with Environment Justice Australia, will feature a presentation from Marjan Minnesma, director of the Dutch NGO that brought the Urgenda case. Ms Minnesma's presentation will be followed by a brief panel discussion with experts from the academic and NGO sectors to consider the implications of the Urgenda case for the course of climate change litigation in Australia.

## Seminar: 7 October

### ***Fossil Fuel Subsidy Reform: A New Zealand Perspective on the International Law Framework.***

**Convenor: Margaret Young.**

Program Director, Fragmentation and Regime Interaction in International Law.

*Co-hosted by the Centre for Resources, Energy and Environmental Law (CREEL) and the Institute for International Law & Humanities (IILAH).*

#### **Abstract**

Subsidies and other forms of government support for the production and consumption of fossil fuels are used by almost all states over a broad political, economic and cultural spectrum. They are implemented in a variety of ways: some explicit, but many in guises which are difficult to identify and assess. Fossil fuel subsidies are directly linked with a range of significant adverse global environmental impacts, most notably, climate change.

In this seminar Mr Rive presented key findings of a two-year research project supported by the New Zealand Law Foundation that examines and critiques New Zealand's role in the initiative. Particular attention is given to the importance and role of epistemic communities (of which the 'Friends' is one) in the development of normative frameworks in the climate change context and the sometimes vexed issue of consistency between domestic policies and international positioning on the part of the 'Friends' members, and relevance of that factor to international law reform efforts.

#### **Speaker**

Vernon Rive's (AUT University Law School) current research interest is climate change law, international environmental law and New Zealand environmental law. Vernon is in the process of completing a book entitled *Fossil Fuel Subsidy Reform: an International Law Response* (Edward Elgar, forthcoming), which, among other things, examines the ability of a fragmented international law system to effectively respond to the largely uncontrolled practices of government support for fossil fuel exploration, production and consumption.

## Seminar: 28 October

### ***Selected Legal Issues in Mining Leases in Mongolia.***

#### ***Presented by Judge Tsogt Tsend.***

*Administrative Court of Appeals, Mongolia Clinical Law Instructor, School of Law, National University of Mongolia.*

*Co-hosted by the Centre for Resources, Energy and Environmental Law (CREEL) and the Asian Law Centre (ALC).*

#### **Abstract**

This seminar discussed legal issues arising in the context of mining licensing in Mongolia, particularly the issuance and eligibility of mineral mining licenses, the revocation of licenses and recent developments of the Minerals Law of Mongolia. The presentation included aspects of environmental concerns and the involvement of local inhabitants in mining licensing as well as the administrative court's jurisdiction over mining disputes.

#### **Speaker**

Judge Tsogt studied law in Mongolia and the USA. He now studies comparative administration law in Japan. Judge Tsogt has experienced the Mongolian judiciary's last two decades of developments and participated extensively in recent judicial reform laws. He was one of the first judges appointed to the administrative court when it was established in 2004. Later he served as chief judge when the intermediate administrative court was established in 2011.

Judge Tsogt has been teaching administrative law, judicial power and clinical legal courses at the School of Law, NUM and various other institutions. He has been the representative of the Mongolian Judges' Association to the International Association of Judges since 2011.

## Masterclass: 6 December

### ***Commons Governance Masterclass***

#### ***Presented by Michel Bauwens, founder P2P Foundation.***

*Co-hosted by the Centre for Resources, Energy & Environmental Law (CREEL) and the Open Food Foundation.*

Run in conjunction with the Open Food Foundation, international peer-to-peer innovator Michel Bauwens focussed on governance by helping solve practical problems in designing institutions to meet the challenges of the coming decades. Michel shared his knowledge and analysis of the core issues in commons-based pathways for generating economic and social innovation. He presented on the basic problems and principles in commons governance design, emerging tools such as innovative intellectual property licences and block chain technology, and case studies from Spain, New Zealand and virtual transnational spaces.

After an initial presentation, Michel worked with masterclass participants for another 45 minutes to collectively analyse, critique and generate suggestions for the emerging issues of a local Australian start-up: the Open Food Network, a non-profit, open-source enterprise supporting local food initiatives globally. The second half of the masterclass workshopped governance models and issues arising from the projects and experience of participants in the room.





# Publications

## **Authored Research Books**

**Peel, J.** and Osofsky, H., *Climate Change Litigation: Regulatory Pathways to Cleaner Energy* (Cambridge University Press, 2015).

## **Book Chapters**

**Godden, L. and O'Connell, E.**, 'Biodiversity justice in a climate change world: Offsetting the Future' in P Martin et al (eds), *The Search for Environmental Justice* (Edward Elgar Publishing, 2015) 62.

**Godden, L., and O'Neill L.**, 'Agreements with Indigenous Communities: The Native Title Act in Australia' in L. Barrera-Hernandez et al (eds) *Sharing the Costs and Benefits of Energy and Resource Activity* (Oxford University Press, 2016).

**Jessup, B.**, and Annette Jones, 'In one ear and out the other: Human rights consultations and environmental discourses for human rights in Australasia', in A. Gear and L. Kotze (eds) *Research Handbook on Human Rights and the Environment* (Edgar Elgar, 2015) 249.

**Peel, J.**, 'Changing Conceptions of Environmental Risk' in J. Viñuales (ed) *The Rio Declaration on Environment and Development. A Commentary* (Oxford University Press, 2015) 75.

**Peel, J.**, 'Regulation of the Nexus' in J. Pittock, K. Hussey and S. Dovers (eds) *Climate, Energy and Water: Managing Trade-Offs, Seizing Opportunities* (Cambridge University Press, 2015) 198.

**Peel, J.**, 'Unpacking the Elements of a State Responsibility Claim for Transboundary Pollution' in S. Jayakumar et al (eds), *Transboundary Pollution: Evolving Issues of International Law and Policy* (Edward Elgar, 2015) 51.

**Young, M.**, 'Fragmentation, Regime Interaction and Sovereignty' in C. Chinkin and F. Baetens (eds) *Sovereignty, Statehood and State Responsibility: Essays in Honour of James Crawford* (Cambridge University Press, 2015) 71-89.

**Young, M.**, 'The Environment and Trade' in J. Vinuales (ed) *The Rio Declaration on Environment and Development* (Oxford University Press, 2015) 325.

**Young, M.**, 'Principle 12: Trade and the Environment' in J. Viñuales (ed) *The Rio Declaration on Environment and Development. A Commentary*, (Oxford University Press, 2015).

## **Refereed Journal Articles**

**Crommelin, M.**, 'Powers of the Head of State' (2015) 38 *Melbourne University Law Review* 1118.

**Godden, L.**, 'Law and the Practices of 'Damming': Tasmanian Dams Case as a Turning Point' (2015) 24 *Griffith Law Review* 127-146.

**Jessup, B.**, 'Justice, recognition and environmental law: The Wielangta Forest conflict, Tasmania, Australia' (2015) 34(1) 5 *University of Tasmania Law Review* 5.

**Jessup, B.**, and McIlwraith, C., 'The sexual legal geography in *Comcare v PVYW*' (2015) 38(4) *UNSW Law Journal* 1484.

**Jukic, E. and Young, M.**, 'Country Report: Australia' (2014) 25(1) *Yearbook of International Environmental Law* 471.

# Publications

Genovese, A and **McVeigh, S.**, 'Nineteen Eighty Three: A Jurisographic Report on Commonwealth v Tasmania' (2015) 24 Griffith Law Review 68-88.

**Macpherson E. and O'Donnell E.**, 'Desafíos para la Gestión de Agua Ambiental en Chile: Una Perspectiva Australiana' [Challenges for Environmental Water Management in Chile: An Australian Perspective] (2015) 21 Revista de Derecho Administrativo Economico.

**O'Neill, L.**, 'The Role of State Governments in Native Title Negotiations: A Tale of Two Agreements' (2014) 18(2) Australian Indigenous Law Review 29.

**Peel, J.**, and Osofsky, H., 'Sue to Adapt?' (2015) 99 Minnesota Law Review 2177-2250.

**Peel, J.**, 'Introductory Note to Whaling in the Antarctic (Australia v Japan: New Zealand Intervening) (I.C.J.)', (2015) 54 International Law Materials 1.

Saunders, C. and **Crommelin, M.**, 'Reforming Australian Federal Democracy' (2015) 74(3) Meanjin Quarterly 1.

**Lael K Weis**, 'Resources and the Property Rights Curse' (2015) 28 Canadian Journal of Law & Jurisprudence 209.

**Young, M** and Rioseco Sullivan, S., 'Evolution Through the Duty to Cooperate: Implications of the Whaling Case at the International Court of Justice' (2015) 16 Melbourne Journal of International Law 310-342.

## ***Unrefereed Journal Articles***

**McVeigh, S.**, 'Afterword: Office and the Conduct of the Minor Jurisprudent' (2015) 5 UC Irvine Law Review 499-511.

## ***Review Articles***

**Jessup, B.**, 'Book Review: Climate Change and Coastal Development Law in Australia' (2015) April Law Institute Journal 67

**Kurtz, J.**, 'Book Review: On Inter-Disciplinary and Inter-Systemic Approaches to International Investment Law' (2015) 16 Journal of World Investment and Trade 557-572.

## Other Articles

**Barker, S.**, 'Directors' personal liability for corporate inaction on climate change' (2015) 67(1) Governance Directions 21.

**Barker, S.**, 'Shareholder climate activism...but not as you know it', Australian Energy and Resources Law Bulletin, March 2015, 18.

**Barker, S.**, and Youngdahl, J., 'Momentum building on climate risk: Fiduciary standards evolving toward including new investing factors', Pensions and Investments (online) (New York), 24 August 2015, available at <http://www.pionline.com/article/20150824/PRINT/308249981/momentum-building-on-climate-risk>.

# Publications

## *Reports and Consultancies*

**Godden, L.**, Connection to Country: Review of the Native Title Act 1993 (Cth) (ALRC Report 126) Australian Law Reform Commission, 4 June 2015.

**Peel, J.** and Fisher, D., How Can International Environmental Law Reduce Disaster Risk? (ASIL/IFRC) June 2015, available at <http://www.asil.org/community/report-asil-workshop-how-can-international-environmental-law-reduce-disaster-risk>.

**Peel, J.**, and Osofsky, H., Evaluation Plan, prepared for Children's Investment Foundation Fund Evaluation of Support to Strategic Climate Litigation in Europe, 14 August 2015.

**Peel, J.**, and Osofsky, H., Ex Ante Strategic Review, prepared for Children's Investment Foundation Fund Evaluation of Support to Strategic Climate Litigation in Europe, November 2015.

**Young, M.A.**, 'Trade-Related Measures to address Illegal, Unreported and Unregulated (IUU) Fishing', think piece for the E15 Initiative, May 2015.

## *Submissions*

**Jessup, B.**, Submission to the review of the Climate Change Act 2010, 10 August 2015, available at [http://www.delwp.vic.gov.au/\\_\\_data/assets/pdf\\_file/0015/311307/UniMelb-MelbLawSchool1.pdf](http://www.delwp.vic.gov.au/__data/assets/pdf_file/0015/311307/UniMelb-MelbLawSchool1.pdf)

**Peel, J. et al**, Submission to Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015, 10 September 2015, available at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/EP\\_BC\\_Standing\\_Bill](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/EP_BC_Standing_Bill).

**Godden, L., and Baxter T.**, Submission: Review of the Climate Change Act 2010 (Vic), to the Independent Review Committee, Climate Change Act Review, Department of Environment, Land, Water and Planning Victoria, 10 August 2015.

## *Media*

**Brad Jessup** spoke with Jon Faine (ABC 774) about the federal government's decision to delay its proposed Bill to limit standing for environmental groups under the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

# Publications

## ***Collaborative Publications***

Dressler, W., Wilson D, Clendenning J, Cramb R, Mahanty S, Lasco R, **Keenan R.J.**, To P, Gevana D, 'Examining how long fallow swidden systems impact upon livelihood and ecosystem services outcomes compared with alternative land-uses in the uplands of Southeast Asia' (2015) 7(2) Journal of Development Effectiveness 210.

**Keenan, R. J.** et al. 'Dynamics of global forest area: Results from the FAO Global Forest Resources Assessment 2015' (2015) 352 Forest Ecology and Management 9.

**Keenan, R.J.**, 'Costa Rica: lessons from 30 years of forest and environmental policy' (2015) 12 Revista Forestal Mesoamericana Kurú 1-3.

**Keenan, R.J.**, 'Climate change impacts and adaptation in forest management: a review' (2015) 72 Annals of Forest Science 145-167.

Paudyal, K., Baral, H. & **Keenan, R. J.**, 'Local actions for the common good: Can the application of the ecosystem services concept generate improved societal outcomes from natural resource management?' (2016) 56 Land Use Policy 327.

Preston, B, Fuenfgeld, H, Rickards, L and **Keenan, R.J.**, 'Toward reflexive climate adaptation research' (2015) 14 Current Opinion in Environmental Sustainability 127-135.

Paudyal, K., Baral, H., Burkhard, B, Bhandari, S.P., **Keenan, R.J.**, 'Participatory assessment and mapping of ecosystem services in a data-poor region: case study of community-managed forests in central Nepal' (2015) 13 Ecosystem Services 81-92.

# Journal Affiliations

*Public Law Review*  
*Singapore Academy of Law Journal*  
*Torts Law Journal*  
*Journal of Energy & Natural Resources Law*

Michael Crommelin, Board of Advisors  
Michael Crommelin, Panel of International Referees  
Brad Jessup, Editorial Board  
Lee Godden, Editorial Board



# Conferences and Seminar Papers

## **Michael Crommelin**

- 'Proposal for Indigenous Constitutional Recognition', Symposium on Indigenous Constitutional Recognition and the Idea of an Indigenous Constitutional Body, Sydney Law School, 12 June 2015.
- Asia Pacific CCUS Legal and Regulatory Forum, Melbourne Convention Centre, 28 May 2015.
- American Law Institute, Annual Meeting, Washington D.C., May 2015.

## **Lee Godden**

- 'Agreement Making Between Indigenous Peoples and Resource Companies in Australia', Universidad Externado, Bogotá, Colombia, 12 June 2015.
- 'Water Governance Innovations in Response to Drought: The Australian Experience', MaRius Project, School of Geography and Socio-Legal Centre, Oxford University, 8 September 2015.
- 'Benefit Sharing: Negotiating the Law in Australian Native Title Agreements', Socio-Legal Centre, Oxford University, 12 October 2015.
- 'Civic Space and Ecological Reproduction: In and out of Law', Flinders University, 3 December 2015.

## **Lee Godden and S Cowell**

- 'Conservation planning in Australia's Indigenous Protected Area', University of Tasmania, 4 November 2015.

## **Lee Godden, Lily O'Neill, Elisabeth MacPherson and Erin O'Donnell**

- 'Australia: Wet or Dry, North or South', UNSW Law School, 8 December 2015.

## **Brad Jessup**

- 'The sexual geography in Comcare v PVYW' presented with Clare McIlwraith at the Inaugural Australian Legal Geography Symposium, University of Technology Sydney, 12 February 2015.
- 'Justice, recognition and environmental Law: The Wielangta Forest conflict', Frontiers in Environmental Law Colloquium, University of Tasmania, 10 February 2015.

## **Jacqueline Peel**

- Co-convenor and panellist, 'The Road to Paris: Multidimensional Action to Address Climate Change', Minnesota Law School, 27-28 October 2015 (cosponsored by ASIL, Energy Transition Lab and Institute on the Environment, University of Minnesota).
- Convenor, 'How Can International Environmental Law Reduce Disaster Risk?', Stanford Law School, 21-22 May 2015 (cosponsored by ASIL, UNEP and IRFC).
- Co-moderator (with N. Grossman), 'The Limits of Judicial Mechanisms for Developing and Enforcing International Environmental Norms', American Society of International Law Annual Meeting, 8- 11 April 2015, Washington D.C.

## **Margaret Young**

- 'Trade-Related Measures to Address IUU Fishing', Food & Agriculture Organisation, Rome, 26 May 2015.
- 'Comments on Trade Policy Options for Sustainable Oceans and Fisheries' (Work Package 1), E15 Initiative, Geneva, 28 May 2015.
- 'Energy Subsidy Reform: Lessons from the Negotiation on Fisheries Subsidies' VUB, Brussels, 26 June 2015.
- 'A Quiet Revolution: The Exclusive Economic Zone and Foreign Fishing Access in the Pacific', Australian National University Symposium, Canberra, 14 August 2015.
- 'Environment, SPS, Energy' at 'TPP Revealed' Workshop, Melbourne Law School, 13 November 2015.

# PhD Continuing Students 2015

Student Name	Supervisors	Thesis title	Degree
Barker, Sarah	Jackie Peel, Judith Marychurch	Directors' Liability for Corporate Responses to Climate Change: A Comparative Study of Australian, US and UK Law	PhD - Law
Bond, James	Brian Cook (Geography and Resource Management), Lee Godden	Divergent Risk Perspectives in Environmental Management	PhD – Science
Clark, Martin	Anne Orford, Kirsty Gover	A Conceptual History of Recognition in International Law	MPhil - Law
Dehm, Julia	Maureen Tehan, Margaret Young, Lee Godden	Reconsidering REDD+: Law, life, growth and limits in crisis	PhD - Law
Macpherson, Elizabeth	Maureen Tehan, Kirsty Gover	The Indigenous Water Market – Commercial Indigenous Water Rights in Australia and Chile	PhD - Law
Morris, Carlo	Michael Stewardson (Engineering), Brian Finlayson (Geography and Resource Management), Lee Godden	Management of the environment using a combination of policy instruments: A case study of farm dams in Victoria	PhD – Engineering
Munro, James	Andrew Mitchell, Margaret Young	The relationship between emissions trading schemes and international trade and investment law	PhD - Law
Niall, Stephanie	Lee Godden, Jackie Peel	Shifting Sands: The Complexity of Managing Natural Resources in a Dynamic Environment	PhD - Law
O'Donnell, Erin	Lee Godden, Sundhya Pahuja, John Freebairn (Economics)	Environmental independence: How can environmental law adapt to an environmental corporation with property rights and a voice of its own?	PhD - Law
O'Neill, Lily	Maureen Tehan, Miranda Stewart, Ciaran O'Faircheallaigh (Melbourne School of Population and Global Health)	Law, power, and indigenous negotiation outcomes in Australia's natural gas industry	PhD - Law
Paine, Joshua	Anne Orford, Margaret Young	International Adjudicatory Functions: A Comparative Study through the Lens of Environmental Cases	PhD - Law
Palmer, Alice	Lee Godden, Shaun McVeigh	Reimagining international environmental law	PhD - Law
Robinson, Robin	Maureen Tehan, Kirsty Gover	Unfinished Business: How to address deficiencies in native title jurisprudence relating to the protection of intragroup native title rights and interests	PhD - Law
Schuijers, Laura	Margaret Young, Jackie Peel	The effective regulation of environmental impact assessment: A case study on hydraulic fracturing	PhD - Law

# PhD Completions 2015

Student	Supervisor(s)	Thesis Title	Degree	Conferral Date
Geroe, Steven	Lee Godden, Mike Sandiford (Earth Science)	Integration of specialist expertise in the Chinese renewable energy consultative drafting process: towards a pluralist-empirical model.	PhD – Law	19-03-2016
Kallies, Anne	Lee Godden, Jackie Peel	How do legal and regulatory frameworks of liberalized electricity markets influence the promotion of renewable energy? Lessons for Australia from international case studies	PhD - Law	19-03-2016
Moges, Melkamu	Maureen Tehan, Matthew Harding	Modelling legislation for a sustainable cadastral system	PhD - Law	17-12-2015

## Presentations by Research Higher Degree Students

**Lily O'Neill**, PhD Completion Seminar, May 2015, 'A Tale of Two Agreements: Negotiating Aboriginal Land Access Agreements in Australia's Liquefied Natural Gas Industry'.

## Grants Awarded

**Michael Crommelin** MSoG Research Cluster Grant, "Renewing Australian Federalism" (with Cheryl Saunders, Miranda Stewart et al).

**Brad Jessup** *Allan Myers Oxford-Melbourne Exchange travel grant* (\$9,000) for travel to Oxford in 2016.

**Rodney Keenan**, Improving policies for forest plantations to balance smallholder, industry and environmental needs in Lao PDR and Vietnam. Australian Centre for International Agricultural Research. Grant ADP-2014-047. Total value \$999,000.

**Jacqueline Peel** 2016-2019 *Australian Research Council Discovery Project Grant* (with H. Osofsky and B. McDonnell) – Devising a Legal Blueprint for Corporate Energy Transition.

**Jacqueline Peel** 2015-2016 *Carlson School and Wells Fargo Sustainability Grant* (with H. Osofsky and B. McDonnell) – A Legal Blueprint for Fostering Sustainable Corporate Energy Practices and Investment Choices.

**Jacqueline Peel** 2015-2017 *Children's Investment Fund Foundation* (with H. Osofsky) – Evaluation of Support to Strategic Litigation on Climate in Europe.

**Jacqueline Peel** 2013-2016 *Australian Research Council Discovery Project Grant* (with H. Osofsky) – Transition to a Clean Energy Future: The Role of Climate Change Litigation in Shaping our Regulatory Path.

# Teaching Program

## Juris Doctorate

PROGRAM	SUBJECT	FIRST NAME	FAMILY NAME
JD Elective	Environmental Law	Brad	Jessup
JD Core subject	Property	Kirsty	Gover
JD Elective	Law and Indigenous Peoples	Kirsty	Gover
JD Elective	Sustainability Business Clinic	Brad	Jessup

## Melbourne Law Masters Program

<i>Master of Environmental Law</i>	<i>Master of Energy and Resources Law</i>
<p>Core Subjects</p> <ul style="list-style-type: none"> <li>Clean Technology Law and Policy</li> <li>Climate Change Law</li> <li>Environmental Rights</li> <li>International Environmental Law</li> <li>International resources Law</li> <li>Law of the Sea</li> <li>Managing Public and Native Title Lands</li> <li>Water Law and Natural Resources Management</li> </ul> <p>Other Subjects</p> <ul style="list-style-type: none"> <li>Energy Regulation and the Law</li> <li>Human Rights and Climate Change</li> <li>International Mineral Law</li> <li>Petroleum Law</li> </ul>	<p>Subject List</p> <ul style="list-style-type: none"> <li>Clean Technology Law and Policy</li> <li>Energy Regulation and the Law</li> <li>Energy Resources in Emerging Markets</li> <li>International Commercial Arbitration</li> <li>International Economic Law</li> <li>International Environmental Law</li> <li>International Mineral Law</li> <li>International Petroleum Transactions</li> <li>International Resources Law</li> <li>Law of the Sea</li> <li>Managing Public and Native Title Lands</li> <li>Petroleum Law</li> <li>Project Finance</li> <li>Public Private Partnerships Law</li> <li>Resources Joint Ventures</li> <li>Water Law and Natural Resources Management</li> </ul>

## Teaching Responsibilities

Professor **Jacqueline Peel** is Associate Dean of the Melbourne Law Masters.

Associate Professor **Margaret Young** is the Director of Studies, Masters of Law, Melbourne Law School.



# Visiting Scholars

- 18-24 March 2015: **Professor Terry Daintith**, University of London (MLM: Energy Regulation and the Law).
- 20-30 March 2015: **Professor Jiunn-rong Yeh** (LLB, LLM, National Taiwan University; LLM, JSD Yale) visited CREEL to discuss research collaboration.
- 18-22 May 2015: **Professor Owen Anderson**, University of Texas (MLM: International Petroleum Transactions)
- 18-22 May 2015: **Professor John Lowe**, Southern Methodist University, United States (MLM: International Petroleum Transactions)
- 10-14 August 2015: **Professor Paul Stephan**, University of Virginia (MLM Energy Resources – Emerging Markets)

# International Visits

**Professor Jacqueline Peel**, 2013 – 2015, Visiting Scholar, Woods Institution for the Environment, Stanford University.

# Linkages

## University

### **Melbourne Sustainability Society Institute**

CREEL is a member of the Melbourne Sustainable Society Institute (MSSI) which aims to facilitate and enable research linkages, projects and conversations leading to increased understanding of sustainability and resilience trends, challenges and solutions. The MSSI approach includes a particular emphasis on the contribution of the social sciences and humanities to understanding and addressing sustainability and resilience challenges. The society is hosted by the Faculty of Architecture, Building and Planning at the University of Melbourne.

### **Melbourne Energy Institute**

CREEL is a knowledge partner of the Melbourne Energy Institute. The MEI is an access point for industry, government and community groups seeking to work with leading researchers on innovative solutions in the following areas: new energy resources, developing new ways to harness renewable energy, more efficient ways to use energy, securing energy waste and framing optimal laws and regulation to achieve energy outcomes.

Professor Michael Crommelin AO is on the MEI Executive Committee.

### **Office for Environmental Programs**

The Office for Environmental Programs (OEP) coordinates the Graduate Environment Program at the University and allows access to a wide range of environmentally relevant subjects. CREEL has close links with OEP. Brad Jessup is a member of the academic advisory committee and CREEL members teach subjects in the program.

## National

### **AMPLA**

CREEL is an associate of the Australian Mining and Petroleum Law Association Ltd in publication of the *Australian Mining and Petroleum Law Journal*.

## **Contact Details**

Centre for Resources, Energy and Environmental Law (CREEL)  
Melbourne Law School  
The University of Melbourne  
Victoria 3010  
Australia

Telephone: +61 3 8344 1011

Email: [law-creel@unimelb.edu.au](mailto:law-creel@unimelb.edu.au)

## **Mailing List**

Subscribe to the CREEL mailing list online via the website.

<http://law.unimelb.edu.au/centres/creel>