



2012 Annual Report

CREEL

Centre for Resources, Energy
and Environmental Law

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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 upon 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 aims to promote research, teaching; and publication into 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 that associated with energy and resource development
- 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 persons from industry, professions, investment institutions, government and universities in Australia and overseas to participate in the Centre's activities.

Director's Report



The Centre for Resources, Energy and Environmental Law (CREEL) has continued to develop a diverse range of research in environmental law, resources law, and energy regulation; consolidating international, national and local linkages with many leading academic, governmental and civic organisations working in cognate fields. For example, CREEL worked closely with the National Environmental Law Association in planning for a national conference in Melbourne. CREEL researchers have had continued success in securing external research funding over 2012; while several researchers have published books and other significant publications over this time. Many of these publications have emerged from ongoing Australia Research Council projects. Centre staff participated in several international legal research groups in energy, resources and environmental law.

The cohort of graduate research students has developed strongly with some notable achievements in 2012, such as International internships, and research support by the British Council. Graduate Researchers have presented at many international and national seminar presentations, as well as organising their own conferences. CREEL has continued a busy schedule of public seminars and events in 2012, together with hosting visiting scholars, and holding research-related workshops. Jenny O'Connell has played a major coordinating role in bringing together CREEL's diverse activities over 2012. She has expanded the CREEL 'web presence' and communication strategies.

CREEL academic staff, graduate research students, and research fellows working on Centre projects, have produced a wide range of research outcomes over 2012 that include many formal publications and seminars. These were augmented by contributions grounded in community engagement, such as pieces in 'The Conversation'. Many activities have focused on research projects associated with CREEL. The ARC Discovery Projects: 'Responding to Climate Change: Australia's Environmental Law and Regulatory Framework' was finalized at the end of 2012. Other projects continued such as, 'Climate Change Law and Mitigation: Forest Carbon Sequestration and Indigenous and Local Community Rights' and ARC Linkage Project: 'Poverty in the Midst of Plenty: Economic Empowerment, Wealth Creation and Institutional Reform for Sustainable Indigenous and Local Communities' (located in Population Health). In 2012, a Victorian Centre for Climate Change Adaptation Research project, 'Governance models for natural disaster risk management: legal, regulatory, institutional and financial risk mechanisms' commenced with a multidisciplinary and multi-university team led by CREEL but also drawing on expertise at other Victorian Universities. The work of Stephanie Niall and Lisa Caripis in coordinating projects and in contributing to the research in these projects is acknowledged. The following sets out more specific activities.

Jacqueline Peel has been a Visiting Scholar at Berkeley Law School's Center for Law, Energy and the Environment in 2012. Jacqueline also was appointed as a Visiting Scholar at Stanford University Woods Environment Institute, in the Water in the West program.

In 2012 Brad Jessup was a visiting researcher at the University of California – Berkeley at the Boalt School of Law and was affiliated with the Center for Law, Energy and the Environment.

PhD Candidate Liz Macpherson is undertaking a visiting research fellowship to the Pontificia Universidad Catolica de Chile working with Chile's leading water law expert Dr Alejandro Vergara Blanco.

A handwritten signature in blue ink that reads "Lee Godden". The signature is written in a cursive, flowing style.

Professor Lee Godden
Director, Centre for Resources, Energy and Environmental Law
Melbourne Law School

Centre Directors

Director



Professor Lee Godden

Professor Godden researches and teaches within the Melbourne Law School. She was appointed Director of the Centre for Resources, Energy and Environmental Law in 2008. Preceding that she held a joint appointment as Director, 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.

Associate Directors



Professor Michael Crommelin AO

Michael Crommelin is Zelman Cowen Professor of Law, a position he has held since 1985. Michael has previously been the 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.



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 currently 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. Professor Peel is presently based in the US as a Visiting Scholar with the University of California's Berkeley Law School and Stanford University's Woods Institute for the Environment.



Associate Professor Maureen Tehan

Associate Professor Maureen Tehan's major focus of research and academic interest is Indigenous legal issues with particular emphasis on native title, heritage protection and land access, use and management. She has a major interest in comparative Canadian law in these areas.

Centre Members



Professor Miranda Stewart

Miranda Stewart is a Professor and Director of Tax at the University of Melbourne Law School. Prior to joining the Law School in 2000, she was working in the private sector and in government on business taxation including mining and petroleum resource rent tax. Her research interests include the politics of tax reform; tax incentives for investment; and tax and economic development. Miranda teaches postgraduate courses including Corporate Tax, Fiscal Reform and Development, and Tax Incentives for Industry and Investment. Miranda has an ongoing interest in resource taxation.



Professor Sundhya Pahuja

Sundhya Pahuja's scholarship is broadly concerned with the changing role of law and legal institutions in the context of development and globalisation. It engages the practice, and praxis, of international law and development through political philosophy, political-economy and postcolonial theories. Sundhya is concurrently a Visiting Research Fellow at Birkbeck, University of London. She is currently a member of the organising committee of the Legal Theory Interest group of the European Society of International Law and serves on the editorial boards of the Australian Feminist Law Journal and Law, Social Justice and Global Development Journal (LGD) based at the University of Warwick.



Associate Professor Mark Burton

Mark has worked, taught and researched in the field of taxation law since 1990. Although Mark specializes in taxation law, his research is of an interdisciplinary nature with particular emphasis upon the political institutions. Mark's recent research has combined elements of political science, political theory, social psychology and law in dealing with the application of democratic principles in the context of taxation law. At present Mark is writing a co-authored book (with Associate Professor Kerrie Sadiq, due February 2012) which critically examines the management of tax expenditures. Tax expenditures, or tax concessions, are a common means by which governments pursue the objective of promoting environmentally sustainable behavior. Tax expenditures might also promote the environmentally unsustainable behavior.



Associate Professor Jürgen Kurtz

Jürgen Kurtz is an Associate Professor and Director of the International Investment Law Research Programme of the Law School's Institute for International Law and the Humanities. Jürgen researches and teaches in the various strands of international economic law including the jurisprudence of the World Trade Organization and that of investor-state arbitral tribunals. He has a particular interest in examining the impact of WTO rules on attempts to construct domestic and multilateral systems for mitigation of carbon emissions. In addition to research and teaching, Jürgen acts as a consultant to a variety of governmental and inter-governmental agencies, including the United Nations Conference on Trade and Development, the United Nations Development Program and the World Bank.



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.



Dr Kirsty Gover

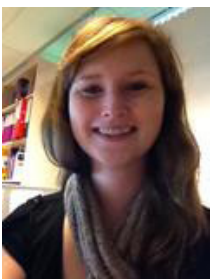
Kirsty Gover is the Director of the Comparative Tribal Constitutionalism Research Programme, co-sponsored by CREEL, IILaH and the CCCS. The study focuses on the governance institutions and constitutions of tribal communities in Australia, New Zealand, Canada and the United States. These define the jurisdictional interface between tribes and other governments in settler societies. The study examines the ways in which tribal communities define and express their own jurisdiction, an under-interrogated aspect of indigenous governance scholarship. It includes analysis of agreements between tribal and other governments on resource management and the joint use and stewardship of land. A book and several articles focussing on the membership regimes in tribal constitutions, will be published in 2010.



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 expert knowledge of environmental law processes, and case study examples of law in society. Brad is especially interested in the law of place and the human and environmental experience of harm and the role of the law. He is the co-author of the edited collection (with Professor Kim Rubenstein) *Environmental Discourses in Public and International Law* published by Cambridge University Press in 2012. Brad has been a visiting scholar at the University of California, Berkeley, where he undertook funded research for the Energy Pipelines CRC exploring land use planning and safety aspects of pipeline regulation on the urban fringe, and research on environmental justice movements and theories. Brad's principal research area is environmental and ecological justice and the exploration of environmental legal conflict. He also has research expertise in Vietnamese environmental laws and marine protected areas, and is exploring the capacity of environmental torts to achieve environmental protection.

Centre Administrator



Ms Jenny O'Connell

Jenny joined the Melbourne Law School in 2010 as CREEL Administrator.

Research Fellows

Jessica Rae

Anita Foerster

Mahala Gunther

Lisa Caripis

Stephanie Niall

Research Higher Degree Students

Takele Bulto

Takele Bulto holds LLB and MA degrees from Addis Ababa University, Ethiopia, and an LLM degree from University of Pretoria, South Africa. Takele worked as a judge and lecturer in Ethiopia and a visiting lecturer at the Centre for Human Rights, Faculty of Law, University of Pretoria. He also worked as Programme Coordinator for Child Rights and Child Rights Programming in Eastern and Central African Regional Office of Save the Children, Sweden. Just before taking up his PhD studies at Melbourne Law School Takele was a Legal Officer in a PanAfrican Pioneer NGO. Takele's thesis is entitled 'The Imperatives of Extraterritorial Application of the Human Right to Water: A Case Study of the Nile Basin' and explores the operationalisation of the emerging human right to water in Africa (supervisors Jacqueline Peel and Carolyn Evans).

Julia Dehm

Julia Dehm is undertaking a PhD at the Melbourne Law School. Julia's thesis is titled 'From REDD to green capitalism: law, life, growth and limits in crisis.' Julia's supervisors are Maureen Tehan and Margaret Young.

Angus Frith

Angus Frith's PhD thesis is entitled, 'Sustainable Indigenous Entities for Making Agreements' and is co-supervised by Lee Godden, Professor Marcia Langton (Centre for Health and Society, Melbourne School of Population Health) and Maureen Tehan.

Steve Geroe

Steve Geroe's PhD thesis is titled 'Institutional Enhancement and Chinese Renewable Energy Law and Policy: An Analysis of Factors Influencing Regulation and an Evaluation of the Results.' Supervised by Lee Godden and Mike Sandiford (Melbourne Energy Institute).

George Kailis

George Kailis' PhD thesis is entitled, 'A Public Right to Fish?' and is co-supervised by Stuart Kaye and Michael Crommelin. George has worked in various organisations as a lawyer, manager and academic and has qualifications in B.Juris, LLB (Hons) and an MBA.

Anne Kallies

Anne Kallies is currently researching her PhD thesis titled 'Can the Market Fix it? Promoting Renewable Energy in Australia' with the Melbourne Law School. The thesis is being co-supervised by Lee Godden and Jacqueline Peel.

Elizabeth MacPherson

Elizabeth MacPherson is undertaking a Master of Philosophy (MPhil) on the topic 'Indigenous Freshwater Rights in Chile and Australia: Can Indigenous Water Rights be Sustainably Integrated within Water Markets?' Elizabeth is being supervised by Kirsty Gover and Maureen Tehan.

Melkamu Moges

Melkamu Moges' PhD is titled, 'Growing practices on safeguarding landrights through improving land registration legislation in Ethiopia: Gaps andStrengths.' Melkamu is being supervised by Maureen Tehan and Matthew Harding.

Erin O'Donnell

Erin O'Donnell is undertaking a PhD on the topic 'Environmental independence: how environmental law can adapt to an environmental corporation with property rights and a voice of its own.' Erin is being supervised by Professor Lee Godden, Professor John Freebairn and Professor Sundhya Pahuja.

Lily O'Neil

Lily O'Neil's PhD research topic is 'Negotiating Resource Agreements for Greater Sunrise and Browse: A Comparative Study'. Lily is being supervised by Maureen Tehan and Miranda Stewart.

Yoriko Otomo

Yoriko Otomo has worked in several government and non-government environmental organisations, and has contributed to publications relating to sustainable development, environmental law and humanitarian issues. Her doctoral thesis on The Changing Landscapes of Risk (supervised by Anne Orford) seeks to develop a semiology of law through a poststructural feminist analysis of key texts within the law of occupation and international economic law. Yoriko is teaching the undergraduate Environmental Law subject at Melbourne Law School.

Darren Parker

Darren Parker is currently studying his PhD titled 'Mining a Culture: Sharing values in environment and resources – can we do better?'. This project is being co-supervised by Maureen Tehan and Kirsty Gover. Darren currently holds one of the MLS 2010 Teaching Fellowships.

Hao Zhang

Hao Zhang is currently studying his PhD titled 'Legal risks of payment scheme of carbon trade and its judicial remedy in China'. This project is being co-supervised by Lee Godden and Sarah Biddulph.

Research Visitors

Bettina Lange (Oxford University)

Rebecca Nelson (Stanford University)

Professor Juanita Pienaar, Faculty of Law, Stellenbosch University

Advisory Board Members

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 law system.

Russell Byard (Senior Member, VCAT)

Russell Byard is a lawyer and Senior Member of the Victorian Civil and Administrative Tribunal, and the Planning and Environment list maintained by VCAT.

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)

B.Arts (University of Melbourne); Dip. Education (Melbourne State College); Dip. Town & Regional Planning (University of Melbourne); FPIA; FVPELA. 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.

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, Systems Thinking 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 Framework Directive. 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 & 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 for 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.

Craig Pearson (Director, Melbourne Sustainable Society Institute, University of Melbourne)

Professor Craig Pearson FAIAST, GAICD, foundation Director of the Melbourne Sustainable Society Institute. Craig facilitates interdisciplinary research to contribute to creating a sustainable society. His interests are in strategic research management, institutional change, and in disciplinary areas relating to agriculture and cities. He has held senior administrative and professor/honorary professor positions in nine universities in Australia, Canada and China and published several books, the latest being co-authored by an art historian.

Events

Symposia

'Turning Points: Remembering 'Koowarta v Bjelke-Petersen', 1982, 153 CLR 16'

11 May 2012: IILAH, CCCS & CREEL co-hosted the first of two symposia to commemorate the anniversaries of seminal High Court cases through the concept of 'Turning Points' as developed by Ann Genovese. The 'Remembering Koowarta v Bjelke-Petersen' event brought together a distinguished group of speakers which included leading Constitutional lawyers, indigenous scholars and historians. A summary of the day was provided by former High Court Judge, Michael Kirby.

CREEL/Environmental Defender's Office: Environmental Justice Symposium

27 July 2012: This jointly sponsored symposium brought together a range of speakers from the community government and academia to explore the dimensions of what constitutes Environmental Justice. Brad Jessup, having recently taken a position at Melbourne Law School, presented a paper, 'Why does environmental justice matter?'

Public Lecture

Unquenchable: America's Water Crisis and What to Do about It

13 April 2012: Professor Robert Glennon, The University of Arizona, a Visiting Fellow with the National Climate Change Adaptation Research Facility (NCCARF) discussed America's 'self-inflicted' water crisis and the lessons to be learned as Australia develops its legal and policy responses around increasing water scarcity.

CREEL & NELA Public Lecture: Ocean Law and Governance

25 October 2012: CREEL and the National Environmental Law Association (NELA) held a public seminar on the laws governing marine planning in Victoria.

Book Launches

CREEL/IILAH Book Launch - 'Trading Fish, Saving Fish' by Margaret Young

13 January 2012 IILAH and CREEL hosted the launch of, 'Trading Fish, Saving Fish: The Interaction between Regimes in International Law' which was the culmination of Associate Professor Young's longstanding research on fisheries and International law. James Crawford AC launched the book.

CREEL and IILAH International Conversation Series Book Launch

18 July 2012: Professor Jacqueline Peel, co-author of Principles of International Environmental Law (third edition) was, "In Conversation" at Readings Bookshop with a panel of distinguished experts on current issues and challenges in international environmental law. The event recognised the substantial contribution that Professor Peel has made to the development to International environmental law.

Book Launch 'Kangaroo Courts and the Rule of Law - The Legacy of Modernism' by Desmond Manderson

Thursday 6 Dec 2012: This book launch was a joint initiative of Melbourne Law School, IILAH, CREEL, Faculty of Arts and the Graduate School of Humanities and Social Science.

Workshop

Environmental Challenges in China: Climate Change, Natural Resources and Urban Development

28 September 2012: The interdisciplinary workshop was organised by Hao Zhang (CREEL PhD) with student colleagues from the University of Melbourne.

Seminars

CREEL Seminar: Conversation on the EPBC Act

11 May 2012: Professor Jacqueline Peel invited JD and LLB students to a panel discussion about the achievements and challenges for the Environment Protection and Biodiversity Conservation Act. The panel comprised: Michael Black, AC, QC, former Chief Justice, Federal Court of Australia, David Blumenthal, former Adviser to Peter Garrett, Federal Minister for Environment Protection, Heritage and the Arts; Alexandra Guild, Senior Associate, Norton Rose, Australia; and Felicity Millner, Principal Solicitor, Environment Defenders Office (Vic).

CREEL Seminar: Communal Tenure in Relation to Mining in South Africa

3 July 2012: Professor Nic Olivier, University of Pretoria, 'Communal land tenure and specific regulatory norms providing for community involvement in matters pertaining to prospecting and mining in South Africa.'

Extractive Industries and Indigenous Peoples: A Changing Dynamic?

24 September 2012: Professor Ciaran O'Faircheallaigh, Griffith University, presented this seminar, during his time as research visitor in the Agreements, Treaties and Negotiated Settlements project.

Redressing Trans-boundary Environmental Harm

20 November 2012: Professor René Lefeber (The Netherlands) presented a seminar analysing the evolution of liability mechanisms in international law that have culminated in the adoption of the Nagoya-Kuala Lumpur Supplementary Protocol.

Research and Publications

Books

Brad Jessup, *Environmental Law*, LexisNexis Butterworths, Australia (2012).

Brad Jessup, and Rubenstein, K, *Environmental Discourses in Public and International Law*, Cambridge University Press, United Kingdom (2012).

A. Zahar, **Jacqueline Peel** and **Lee Godden**, *Australian Climate Law in Global Context* (CUP, 2012).

P. Sands and **Jacqueline Peel**, *Principles of International Environmental Law*, (3 ed, CUP, 2012).

Brad Jessup, *Environmental Law*, LexisNexis Butterworths, Australia (2012).

Brad Jessup, and Rubenstein, K, *Environmental Discourses in Public and International Law*, Cambridge University Press, United Kingdom (2012).

A. Zahar, **Jacqueline Peel** and **Lee Godden**, *Australian Climate Law in Global Context* (CUP, 2012).

P. Sands and **Jacqueline Peel**, *Principles of International Environmental Law*, (3 ed, CUP, 2012).

Book Chapters

Michael Crommelin, 'Australia' in G Anderson (ed), *Oil & Gas in Federal Systems*, Oxford University Press, Canada (2012), 35-60.

Lee Godden, 'Climate Change: Limits Discourses at the Interface of International Law and Environmental Law' in **Brad Jessup** and K Rubenstein (eds), *Environmental Discourses in Public and International Law*, Cambridge University Press, United Kingdom (2012), 263-285.

Lee Godden, 'Legal Frameworks for Local Adaptation in Australia: The Role of Local Government in Water Governance in a Climate Change Era' in B Richardson (ed), *Local Climate Change Law: Environmental Regulation in Cities and Other Localities*, Edward Elgar Publishing, United Kingdom (2012), 325-352.

Lee Godden and **Anne Kallies**, 'Electricity Network Development: New Challenges for Australia' in M Roggenkamp, L Barrera-Hernandez, D Zillman and I Del Guayo (eds), *Energy Networks and the Law: Innovative Solutions in Changing Markets*, Oxford University Press, United Kingdom (2012), 292-312.

Brad Jessup, 'The Journey of Environmental Justice Through Public and International Law' in B Jessup and K Rubenstein (eds), *Environmental Discourses in Public and International Law*, Cambridge University Press, United Kingdom (2012), 47-70.

Brad Jessup and Rubenstein, K, 'Introduction: Using Discourse Theory to Untangle Public and International Environmental Law' in B Jessup and K Rubenstein (eds), *Environmental Discourses in Public and International Law*, Cambridge University Press, United Kingdom (2012), 1-20.

Sundhya Pahuja, 'Conserving the World's Resources?' in J Crawford and M Koskenniemi (eds), *The Cambridge Companion to International Law*, Cambridge University Press, United Kingdom (2012), 398-420.

Sundhya Pahuja, 'The Poverty of Development' in J Crawford and S Nouwen (eds), *Select Proceedings of the European Society of International Law*, Hart Publishing, United Kingdom (2012), 365-373.

Rafael Plaza, 'South America's Dilemma: Sustainable Development and Renewable Energies - Can Transnational Power Grids Assist in a Solution?' in M Rodi (ed), *Energy Infrastructure and Policy Options for a Sustainable Future*, Lexion, Germany (2012), 161-188.

Miranda Stewart, 'Tax Law and Policy for Indigenous Economic Development in Australia' in M Langton and J Longbottom (eds), *Community Futures, Legal Architecture: Foundations for Indigenous Peoples in the Global Mining Boom*, Routledge, United Kingdom (2012), 163-179.

Miranda Stewart, 'Taxation Policy and Housing' in S Smith (ed), *International Encyclopedia of Housing and Home*, Elsevier Science, United Kingdom (2012), 152-166.

Miranda Stewart, 'The Tax Expenditure Concept Globally' in Y Brauner and M McMahon (eds), *The Proper Tax Base: Structural Fairness from an International and Comparative Perspective - Essays in Honor of Paul McDaniel*, Kluwer Law International, Netherlands (2012), 47-85.

Maureen Tehan and **Lee Godden**, 'Legal Forms and their Implications for Long-term Relationships and Economic, Cultural and Social Empowerment: Structuring Agreements in Australia' in M Langton and J

Longbottom (eds), *Community Futures, Legal Architecture: Foundations for Indigenous Peoples in the Global Mining Boom*, Routledge, United Kingdom (2012), 111-132.

Yapao, G, **Lee Godden** and Pettigrove, S, 'Papua New Guinea: Conflicts, Customary Landholding and Resource Exploitation' in M Langton and J Longbottom (eds), *Community Futures, Legal Architecture: Foundations for Indigenous Peoples in the Global Mining Boom*, Routledge, United Kingdom (2012), 77-94.

Margaret Young, 'Food Security, Sustainability and Trade Distortions: Fisheries Subsidies and the WTO' in R Rayfuse and N Weisfelt (eds), *The Challenge of Food Security: International Policy and Regulatory Frameworks*, Edward Elgar Publishing, United Kingdom (2012), 190-205.

Margaret Young, 'Introduction: The Productive Fiction Between Regimes' in M Young (ed), *Regime Interaction in International Law: Facing Fragmentation*, Cambridge University Press, United Kingdom (2012), 1-19.

Margaret Young, 'Regime Interaction in Creating, Implementing and Enforcing International Law' in M Young (ed), *Regime Interaction in International Law: Facing Fragmentation*, Cambridge University Press, United Kingdom (2012), 85-110.

Journal Articles - Refereed

Birrell, K, **Lee Godden** and **Maureen Tehan**, 'Climate Change and REDD+: Property as a Prism for Conceiving Indigenous Peoples' Engagement' (2012) 3 *Journal of Human Rights and the Environment* 196-216.

Lisa Caripis and **Anne Kallies**, "Planning Away" Victoria's Renewable Energy Future? Resolving the Tension Between the Local and Global in Windfarm Developments' (2012) 29 *Environmental and Planning Law Journal* 415-435.

Dorsett, S and **Shaun McVeigh**, 'Conduct of Laws: Native Title Responsibility, and Some Limits of Jurisdictional Thinking' (2012) 36 *Melbourne University Law Review* 470-493.

Eslava, L and **Sundyha Pahuja**, 'Beyond the (Post)Colonial: TWAIL and the Everyday Life of International Law' [2012] *Verfassung und Recht in Uebersee: Law and Politics in Africa, Asia, and Latin America* 195-221.

Anita Foerster, 'Emerging Environmental Water Governance in Australia' (2012) 22 *The Journal of Water Law* 58-72.

Anita Foerster, 'The Murray-Darling Basin Plan: A New Chapter of Sustainable Water Management?' (2012) 27 *Australian Environment Review* 71-74.

Anita Foerster, 'Victorian Bushfire Planning: State driven, Locally Implemented?' (2012) 27 *Australian Environment Review* 332-336.

Lee Godden and **Jacqueline Peel**, 'Cooperative Federalism and the Proposed COAG Reforms to the EPBC Act.' (2012) 28 *Australian Environment Review* 395-399.

Keenan, R, **Lisa Caripis**, **Anita Foerster**, **Lee Godden** and **Jacqueline Peel**, 'Science and the Governance of Australia's Climate Regime' (2012) 2 *Nature Climate Change* 477-478.

Jurgen Kurtz, 'Australia's Rejection of Investor-state Arbitration: Causation, Omission and Implication' (2012) 27 *ICSID Review: Foreign Investment Law Journal* 65-86.

Jurgen Kurtz, 'The Shifting Landscape of International Investment Law and its Commentary' (2012) 106 *American Journal of International Law* 686-694.

Jacqueline Peel, 'Of Apples and Oranges (and Hormones in Beef): Science and the Standard Review in WTO Disputes under the SPS Agreement' (2012) 61 *International and Comparative Law Quarterly* 427-458.

Jacqueline Peel, **Lee Godden** and Keenan, R, 'Climate Change Law in an Era of Multi-level Governance' (2012) 1 *Transnational Environmental Law* 245-280.

Rafael Plaza, 'Biofuels Regulatory Frameworks in the Context of Energy Security and Climate Change' (2012) *New Jurist* 1-17.

Hao Zhang, 'China's Energy Conservation and Carbon Emissions Reduction System: Development and Status quo of the Regulatory and Institutional Framework' (2012) 42 *Environmental Law Reporter* 10260-10279.

Journal Articles

Lisa Caripis, 'The Victorian critical electricity infrastructure offences and climate change protest' (2012) 92 Impact 11.

Lisa Caripis and **Anne Kallies**, 'Victorian wind farm laws: a blow to Australia's clean energy future?' The Conversation, 4 September 2012

Lee Godden, **Jacqueline Peel** and **Lisa Caripis**, 'Commonwealth should keep final say on environment protection' The Conversation, 5 December 2012, <http://theconversation.edu.au/commonwealth-should-keep-final-say-on-environment-protection-11047>.

Lily O'Neil, 'Marcia Langton's 'quiet revolution' and what you don't hear about James Price Point', The Conversation, 12 December 2012, available at <http://theconversation.com/marcia-langtons-quiet-revolution-and-what-you-dont-hear-about-james-price-point-11256>

Maureen Tehan, 'Rights of Indigenous Australians in the Federal System: Policies for Maintaining unity in diversity in the Federation' 5th International Conference on Federalism Addis Ababa (2012)

Reference Works

Maureen Tehan, Updating Author Chapters 1 and 2, Lexis/Nexis Native Title (2012)

Online

Climate Law Blog

http://blogs.unimelb.edu.au/peel_climatechange/

CREEL's Associate Director, **Jacqueline Peel**, has a climate change law blog.

Lines on the Water

<http://linesonthewater.blogspot.com.au/>

Erin O'Donnell, CREEL PhD Candidate has a blog on the legal and policy aspects of environmental water management

Activist Legal Support Manual

Julia Dehm, 'Activist Legal Support Manual' (Second Edition, 2012) www.activistrights.org.au, Fitzroy Legal Service.

Grants

Lee Godden, **Jacqueline Peel**, Matthew Bell, Francine Rochford (La Trobe University), Rachel Carter (La Trobe University) and Jude Wallace (Faculty of Engineering, University of Melbourne) John Handmer (RMIT) 2012-2014 Governance Models for Adaptation and Natural Disaster Risk Management: Legal, Regulatory, Institutional and Financial Assessment, Victorian Centre for Climate Change Adaptation Research (VCCCAR)

Maureen Tehan, **Lee Godden**, **Margaret Young** and **Kirsty Gover** 2011-2013 Climate Change Law and Mitigation: Forest Carbon Sequestration and Indigenous and Local Community Rights, ARC Discovery Project

Marcia Langton, **Maureen Tehan**, **Miranda Stewart**, **Lee Godden**, Carian O'Fairchellaigh, J Taylor and Lisa Strelein 2009-2012 Poverty in the Midst of Plenty: Economic Empowerment, Wealth Creation and Institutional Reform for Sustainable Indigenous and Local Communities, ARC Linkage Project

External Conference and Seminar Presentations

- Lisa Caripis** attended, Climate Adaptation in Action, NCCARF Conference, Melbourne, 26 June 2012.
- Lee Godden**, (and colleagues from AAG), 'Energy Networks', International Bar Association, SEERIL Conference, Interconnection: Infrastructure and Change, 26 April, Santiago, Chile 2012.
- Lee Godden**, 'Development of Sustainable Energy Laws in Australia', The University of Chile, 29 April 2012.
- Lee Godden**, 'Case Study on water governance in Australia', POLIS Project on Ecological Governance- Navigating our Water Future: lessons from Australia and Europe Public Lecture, University of Victoria, BC Canada 18 June 2012.
- Lee Godden**, 'Towards a Blueprint for Watershed Governance in British Columbia,' POLIS Water Sustainability Project, Victoria BC Canada, 19-20 June 2012.
- Lee Godden** and Niranjan Casinader, 'The Kandyan Convention: Consolidating the British Empire in colonial Ceylon' Conference on The Legal Histories of The British Empire: Laws, Spaces, Cultures and Empire: Engagements and Legacies, National University of Singapore, July 5-7, 2012.
- Lee Godden**, 'How do indigenous and local community rights interact with climate change governance of forest resources?' School of Social Sciences, University of Malaya, Sabah, Malaysia, 11 July 2012.
- Lee Godden**, Ray Ison, Philip Wallis, 'Damning Dams: Dams as Mediators of Structurally-coupled social-biophysical systems' Taping the Turn: Water's Social Dimensions ANU Canberra 15-16 November 2012.
- Lee Godden**, 'How does Law Write History?', Receiving Laws/Giving Laws 31st Annual ANZLHS Conference 10 December 2012: UTS, Sydney.
- Lee Godden, Stephanie Niall**, Rachel Carter (LaTrobe Uni) and **Lisa Caripis**, 'Scoping legal, regulatory and institutional frameworks for disaster risk management and adaptation', Annual VCCCAR Forum, June 2012.
- Brad Jessup**, 'Environmental justice in Australia', National Graduate Law Conference; ANU; 19 October 2012.
- Brad Jessup**, 'A regional waste facility or a local tip out of place? Shifting power through legal categorisation', Annual Meeting of the Association of American Geographers, New York, February 2012.
- Brad Jessup** attended, California Water Law Symposium, University of California – Berkeley; January 2012.
- Brad Jessup**, 'Why does environmental justice matter?'; presented at the EDO/CREEL Environmental Justice Symposium; University of Melbourne; 27 July 2012.
- Hari Osofsky and **Jacqueline Peel**, 'Climate Change Litigation and Regulatory Pathways', Workshop on Climate Change Litigation, Policy and Mobilization, 26-27 April 2012, British Academy, London.
- Jacqueline Peel**, 'Quality of Indigenous Teaching', Murrup Barak Institute Associates Forum, Melbourne, 16 April 2012 (with members of Academic Women In Leadership project group)
- Jacqueline Peel**, Presentation, as Acting Rapporteur, of the Second Report of the Committee on Legal Principles relating to Climate Change, International Law Association's biannual meeting in Sofia, Bulgaria, 27 August 2012.
- Jacqueline Peel**, Catalyzer remarks, Groundwater and Uncertainty, Comparative Groundwater Law and Policy Workshop, USSC-Stanford Woods Institute for the Environment, University of Sydney, 21-22 June 2012.
- Maureen Tehan**, 'Governance for Climate Change Mitigation at the Intersection of International and National Frameworks: Lessons Learned and Future Prospects', Climate Change Mitigation with Local Communities and Indigenous Peoples: Practices and Prospects Cairns Australia March 2012.
- Maureen Tehan**, 'Practising law and politics in 1980s Australia: the liberating effect of *Koowarta v Bjelke-Petersen*' Turning Points: Remembering *Koowarta v Bjelke-Petersen* Melbourne Law School May 2012.
- Maureen Tehan**, 'The Politics of Citizenship in the Age of Human Rights: An International Research Workshop', convened by Professor Anna Yeatman, Whitlam Institute, University of Western Sydney; invited commentator and responder, August 2012.
- Margaret Young** attended International Law in a Multipolar World, American Society of International Law, Washington DC, 3-6 April 2013.

Government and Law Reform Submissions

Lisa Caripis et al, Senate Standing Committee on Environment and Communications, Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012.

Lee Godden, Bell, M, **Lisa Caripis**, Carter, R, Handmer, J, **Stephanie Niall**, **Jacqueline Peel**, Rochford, F, and Wallace, J, 'Report to Victoria's Adaptation Plan', Victorian Centre for Climate Change Adaptation Research Report, September 2012.

Anne Kallies, 'Submission to the Select Committee on Electricity Pricing', (September 2012).

Haines, F, Christoff, P, **Anne Kallies**, Sandiford, M, Dargaville, R and McConnell, D, 'Submission to the Productivity Commission' Draft Report on Electricity Network Regulatory Frameworks' (November 2012).

Erin O'Donnell, 'Submission to the Victorian Government Water Law Review' (December 2012).

Miranda Stewart and **Maureen Tehan**, Submission to Australian Treasury on Tax Laws Amendment Bill 2012: Tax Treatment Of Native Title Benefits 2012.

Maureen Tehan, Submission to Australian Attorney-General's Department on Native Title Amendment Bill 2012 (Exposure Draft) 2012.

Margaret Young, 'Submission to Review of Commonwealth Fisheries Management Legislation' (October 2012).

Media

Anne Kallies and **Lisa Caripis**, radio interview, ABC 774 Melbourne (Melbourne)
07:45 News - 30/08/2012 7:55 AM

The University of Melbourne Law School has found Victoria is putting local interests ahead of those of the wider community in relation to wind power.

Anne Kallies and **Lisa Caripis**, radio interview, ABC Ballarat (Ballarat)
Mornings - 30/08/2012 10:55 AM

Interview by Anthony Stewart, ABC News with Lisa Caripis, about Vic wind farm laws. Caripis compares wind farm veto powers by neighbours with powerless residents in Morwell and Anglesea who disagreed with developments near them.

Anne Kallies and **Lisa Caripis**, radio interview, 3CR (Melbourne)
Breakfast - 30/08/2012 7:01 AM
Sasha Petrova

Media release on **Lisa Caripis** and **Anne Kallies** - 'Are we planning away Victoria's renewable energy future?' The Melbourne Newsroom 29 August 2012 <http://newsroom.melbourne.edu/news/n-895>

Presentations - Research Higher Degree Students

Julia Dehm, 'The inclusion of law's shadow: the incorporation of nature and forest-dependant communities into globalised capital flows through REDD+' International Law and the Periphery, The American University in Cairo, Sydney Law School, Cairo, February 2012.

Julia Dehm, PhD Candidate chaired the seminar 'Reflections on Rio +20: what role for 'green growth' and 'earth summitry' in environmental justice?' 28 June 2012.

Melkamu Belachew Moges, 'Land titling legislations of Ethiopia and Australia: A brief comparison', Australian National University (ANU) College of Law National Graduate Law Conference, Canberra, Friday 19 October 2012.

Erin O'Donnell, Guest lecture: to the Water Law and Natural Resource Management (LAWS70185) entitled 'The Victorian Environmental Water Holder: New Developments in Environmental Water Governance', 1 March 2012.

Erin O'Donnell, 'Institutional developments in environmental water management: a path to legal standing, representation and personhood?' Melbourne Wild Law Seminar, convened by the Environment Defender's Office, 17 August 2012.

Erin O'Donnell, 'Next generation environmental water management: organisations and governance', G08-C9 Australia-China postgraduate student conference on water resource management, September 2012.

Lily O'Neil, 'Powerful Negotiators: Coming to an Agreement for James Price Point', Indigenous Business, Enterprise and Corporations (IBEC) Conference, The University of Western Australia (UWA), Perth, 3-4 December 2012.

Hao Zhang, 'Voluntary Carbon Emissions Trading Schemes in China: A Promising Way to Reduce Carbon Emissions? ANU Climate Change Expo', Australian National University, Canberra, Australia, 16 March 2012.

Hao Zhang, Institutional Setting-ups of Climate Change Governance in China: Central Vision, Local Constraints and Tensions Identified. ClimateChange Governance in the Asia-Pacific Region: Agency and Adaptiveness, Australian National University, Canberra, Australia, 14-16 March 2012.

Journal Affiliations

British Year Book of International Law
Journal of Energy & Natural Resources Law
Legal Education Review
Melbourne Journal of International Law
Yearbook of Climate Change Compliance

Margaret Young, Assistant Editor
Lee Godden, Member of the Editorial Board
Lee Godden, Member of the Editorial Board
Jacqueline Peel, Member of the Advisory Board
Jacqueline Peel, Member of the Advisory Board

Linkages University

Melbourne Sustainable Society Institute (MSSI)

CREEL has established strong links with University of Melbourne researchers in the energy, resources and environmental fields. CREEL is a member of the Melbourne Sustainable Society Institute (MSSI) which fosters sustainability research on large public issues, by integrating research expertise from a range of disciplinary perspectives, www.sustainable.unimelb.edu.au

Melbourne Energy Institute

CREEL is a knowledge partner of the Melbourne Energy Institute, with CREEL Associate Director Professor Michael Crommelin being a researcher in Energy Law and Regulation. The Melbourne Energy Institute offers the critical capacity to rethink the way we generate, deliver and use energy. www.energy.unimelb.edu.au

Office for Environmental Programs (OEP)

The Office for Environmental Programs (OEP) coordinates the Graduate Environmental Program at the University and allows access to a wide range of environmentally relevant subjects. CREEL has close links with OEP as Professor Godden is an Associate Director for the Office for Environmental Programs. CREEL members teach subjects in the program.

International

Jacqueline Peel has been a Visiting Scholar at Berkeley Law School's Center for Law, Energy and the Environment. Jacqueline is also appointed as a Visiting Scholar at Stanford University Woods Environment Institute, in the Water in the West program.

In 2012 **Brad Jessup** was a visiting researcher at the University of California – Berkeley at the Boalt School of Law and was affiliated with the Center for Law, Energy and the Environment.

PhD Candidate **Liz Macpherson** is undertaking a visiting research fellowship to the Pontificia Universidad Catolica de Chile working with Chile's leading water law expert Dr Alejandro Vergara Blanco.

International Union for the Conservation of Nature (IUCN)

CREEL is a member of the International Union for the Conservation of Nature (IUCN) Academy of Environmental Law, University of Ottawa, Canada and remains affiliated with the Academy. This group is a leading international coalition of Law Schools researching and teaching environmental law.

International Law Association's Committee on Legal Principles Relating to Climate Change

Jacqueline Peel is an expert member for the International Law Association's Committee on Legal Principles Relating to Climate Change and was the Acting Rapporteur for the Committee at its 2012 meeting. The Association's objectives are pursued through the work of its International Committees, the focal point of its activities being the series of Biennial Conferences. The Committee on Legal Principles Relating to Climate Change was established in November, 2008 and has produced two reports. Associate Professor Peel has contributed to the sections of the reports dealing with precaution and sustainable development.

Teaching

Lee Godden and **Jacqueline Peel**, Environmental Law JD

Lee Godden, Water Law, Climate Law (MLM) and Environmental Law (Office for Environmental Programs)

Jacqueline Peel, Alice Palmer and Sam Johnston, International Environmental Law LLM

Lisa Caripis, Climate Change II (Breadth subject), Semester 1 2012

Brad Jessup, Torts, 2012

Margaret Young, Climate Change Law (MLM)

Maureen Tehan, Indigenous People, Land and Resources Law Melbourne Law Masters intensive

Maureen Tehan, Aboriginal Land Law and Philosophy Undergraduate Breadth subject

Maureen Tehan, Sex, Race and Social Justice Undergraduate Breadth subject

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Melbourne Law School's graduate program in energy and resources law allows lawyers and other professionals to gain expertise and skills in statutory and contractual regimes governing exploration and production, sophisticated commercial transactions relating to those activities, project finance, regulatory controls and resolution of resources conflicts, drawing upon Australian experience and applying it globally.

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