Law

LAWENVIR 433 : Resource Management Law (15 POINTS)

2021 Semester Two

Course Prescription

An examination of the law relating to resource management and environmental regulation including: evolution of the sustainable management concept, consideration of national objectives, application of the Treaty of Waitangi, national standards, coastal policies, regional statements and plans, district plans, designations, heritage and conservation powers, resource consent procedures, and remedial powers and enforcement procedures.

Course Overview

Course Description

The course assesses the historic justification for planning and environmental regulation. It considers the development and objectives of sustainable management and its application in New Zealand. The systems for governance and implementation of the Resource Management Act 1991 (RMA) are covered. This aspect will involve consideration of the central and local government agencies responsible for policymaking, planning and decision-making under the RMA. National policy statements, national environmental standards, the New Zealand Coastal Policy Statement, regional policies and plans, and district plans prepared by central and local government will be examined, including the following specific issues:

- The international concept of sustainable development and the concept of sustainable management as implemented in the RMA;
- Resource management reform and New Zealand’s environmental institutions;
- Central and Regional government resource management policy formulation and implementation;
- Regional and Territorial government planning and decision-making processes;
- Resource consent applications and procedure, notification and assessment issues, and consent conditions;
- Protection of historic heritage, the coast, and outstanding landscapes;
- Issues relating to Māori, Treaty of Waitangi/Tiriti o Waitangi, participation and cultural heritage;
- Requirements and designations for public works and utility infrastructure;
- The application of the RMA to selected natural resource development;
- Climate change and renewable energy developments;
- Practice and advocacy before consent authorities and the Environment Court;
- Enforcement options under the RMA; and
- Current RMA law reform initiatives.

Subject to availability, guest lectures will be provided on RMA practice-related aspects.

Content Outline

The Resource Management Act 1991 (RMA) is the main focus of the course which aims to introduce participants...
to the environmental and regulatory systems applying in New Zealand in respect to the use of land, air and water. It will address the philosophy and objectives underlying environmental and resource management law, and the legal mechanisms used in regulating activities and governance. The course will benefit persons likely to be involved in general legal practice, natural resource management, local government and property. It will provide knowledge and skills to understand the policymaking, planning and consent application processes before local authorities and the Environment Court.

Course Rationale
Planning, environmental and resource management regulation based on principles of sustainable management of human interactions with, and within, ecological systems is now an integral part of the New Zealand legal system. Persons with legal skills are necessary participants in the making and implementation of environmental and planning law and policy, principally delivered under the RMA in New Zealand. The giving of advice to landowners and developers, local authorities and community groups is a significant function for lawyers and other professionals. Lawyers and planners may present submissions on the content of planning instruments such as national policy statements, regional policy statements and plans, and district plans. Housing strategies, landscape protection, transportation and infrastructure, environmental remediation, aquaculture, heritage, mining and natural resource development, and Māori cultural issues are further areas of practice. Advice on alternative dispute resolution, and representation before council committees, consent authorities, and the Environment Court, are also important roles for lawyers and expert witnesses.

Course Requirements
Prerequisite: LAW 211 Restriction: LAWENVIR 401 or LAW 349 or 450 or 457

Capabilities Developed in this Course

- Capability 1: Disciplinary Knowledge and Practice
- Capability 2: Critical Thinking
- Capability 3: Solution Seeking
- Capability 4: Communication and Engagement
- Capability 5: Independence and Integrity
- Capability 6: Social and Environmental Responsibilities

Graduate Profile: Bachelor of Laws

Learning Outcomes
By the end of this course, students will be able to:

1. Identify and evaluate the sustainable management ethos that underpins planning and natural resource management in New Zealand. (Capability 1.1, 1.2, 1.3, 2.2, 4.1 and 6.3)
2. Engage with and apply the key RMA processes, and related central and local government functions, in a competent manner. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 4.2 and 5.1)
3. Identify, critique and apply the policy and regulatory matrix within which the RMA processes operate. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 5.1, 6.1 and 6.3)
4. Exhibit an understanding of the interrelationship between legislative measures, administrative measures and common law principles in the environmental and resource management context. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2 and 4.1)

5. Articulate and apply key provisions of the RMA in various contexts, including in district/regional plan development and resource consent applications. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 5.1, 6.1 and 6.3)

6. Understand and critically evaluate current law reform proposals for environmental and resource management. (Capability 1.1, 2.2, 3.1, 3.2, 5.2, 6.2 and 6.3)

7. Demonstrate effective analytical and written communication skills. (Capability 2.1, 2.2, 2.3, 4.1 and 5.1)

Assessments

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Workload Expectations

This is a standard 15-point course. There will be around 36 hours of lectures in this course. As a general guide, you should expect a workload of three hours outside of the classroom for each hour spent in class. The guideline for the total workload for this course is 150 hours.

Delivery Mode

Campus Experience

Attendance is expected at lectures and workshops.
Lectures will be available as recordings.
The course will include group discussions.
Attendance on campus is required for the exam.
The activities for the course are scheduled as a standard weekly timetable.
Learning Resources


Recommended for reference in Davis Law Library:
- Klaus Bosselmann, David Grinlinton & Prue Taylor, Environmental Law for a Sustainable Society (2nd ed. NZCEL 2013) [$20 from student reception]
- Peter Salmon & David Grinlinton (Gen eds), Environmental Law in New Zealand (2nd ed, Thomson Reuters, 2018)
- Derek Nolan (ed), Environmental & Resource Management Law (7th ed, LexisNexis 2020) (or looseleaf/online ed)
- EDS (Raewyn Peart), The Community Guide to the RMA 1991 (see EDS website for latest RMA publications and guides: www.eds.org.nz

[See other library texts & databases, listed below under ‘Other Information’]

Student Feedback

At the end of every semester students will be invited to give feedback on the course and teaching through a tool called SET or Qualtrics. The lecturers and course co-ordinators will consider all feedback and respond with summaries and actions.

Your feedback helps teachers to improve the course and its delivery for future students.

Class Representatives in each class can take feedback to the department and faculty staff-student consultative committees.

Other Information

Learning and teaching

The course is taught through lectures, starting on Monday 19 July and ending on Wednesday 20 October. Lectures are currently expected to be conducted ‘live’. Questions during lectures are encouraged. Mon 12-2pm; Wed 1-2pm

The lectures will be on Mondays between 12pm and 2pm, and Wednesdays between 1pm and 2pm, in Stone Lecture Theatre.

Office hours to be confirmed. Office hours provide an excellent opportunity to clarify areas of misunderstanding or ask lingering questions about the course content.

Digital Resources

Course materials are made available in a learning and collaboration tool called Canvas which also includes reading lists and lecture recordings (where available).

Please remember that the recording of any class on a personal device requires the permission of the instructor.
**Academic Integrity**

The University of Auckland will not tolerate cheating, or assisting others to cheat, and views cheating in coursework as a serious academic offence. The work that a student submits for grading must be the student's own work, reflecting their learning. Where work from other sources is used, it must be properly acknowledged and referenced. This requirement also applies to sources on the internet. A student's assessed work may be reviewed against online source material using computerised detection mechanisms.

**Inclusive Learning**

All students are asked to discuss any impairment related requirements privately, face to face and/or in written form with the course director, lecturer or tutor.

Student Disability Services also provides support for students with a wide range of impairments, both visible and invisible, to succeed and excel at the University. For more information and contact details, please visit the [Student Disability Services’ website](http://disability.auckland.ac.nz).

**Special Circumstances**

If your ability to complete assessed coursework is affected by illness or other personal circumstances outside of your control, contact a Student Academic and Support Adviser as soon as possible before the assessment is due.

If your personal circumstances significantly affect your performance, or preparation, for an exam or eligible written test, refer to the University’s [aegrotat or compassionate consideration page](https://www.auckland.ac.nz/en/students/academic-information/exams-and-final-results/during-exams/aegrotat-and-compassionate-consideration.html).

This should be done as soon as possible and no later than seven days after the affected test or exam date.

**Learning Continuity**

In the event of an unexpected disruption we undertake to maintain the continuity and standard of teaching and learning in all your courses throughout the year. If there are unexpected disruptions the University has contingency plans to ensure that access to your course continues and your assessment is fair, and not compromised. Some adjustments may need to be made in emergencies. You will be kept fully informed by your course co-ordinator, and if disruption occurs you should refer to the University Website for information about how to proceed.

**Student Charter and Responsibilities**
The Student Charter assumes and acknowledges that students are active participants in the learning process and that they have responsibilities to the institution and the international community of scholars. The University expects that students will act at all times in a way that demonstrates respect for the rights of other students and staff so that the learning environment is both safe and productive. For further information visit Student Charter https://www.auckland.ac.nz/en/students/forms-policies-and-guidelines/student-policies-and-guidelines/student-charter.html.

Disclaimer

Elements of this outline may be subject to change. The latest information about the course will be available for enrolled students in Canvas.

In this course you may be asked to submit your coursework assessments digitally. The University reserves the right to conduct scheduled tests and examinations for this course online or through the use of computers or other electronic devices. Where tests or examinations are conducted online remote invigilation arrangements may be used. The final decision on the completion mode for a test or examination, and remote invigilation arrangements where applicable, will be advised to students at least 10 days prior to the scheduled date of the assessment, or in the case of an examination when the examination timetable is published.