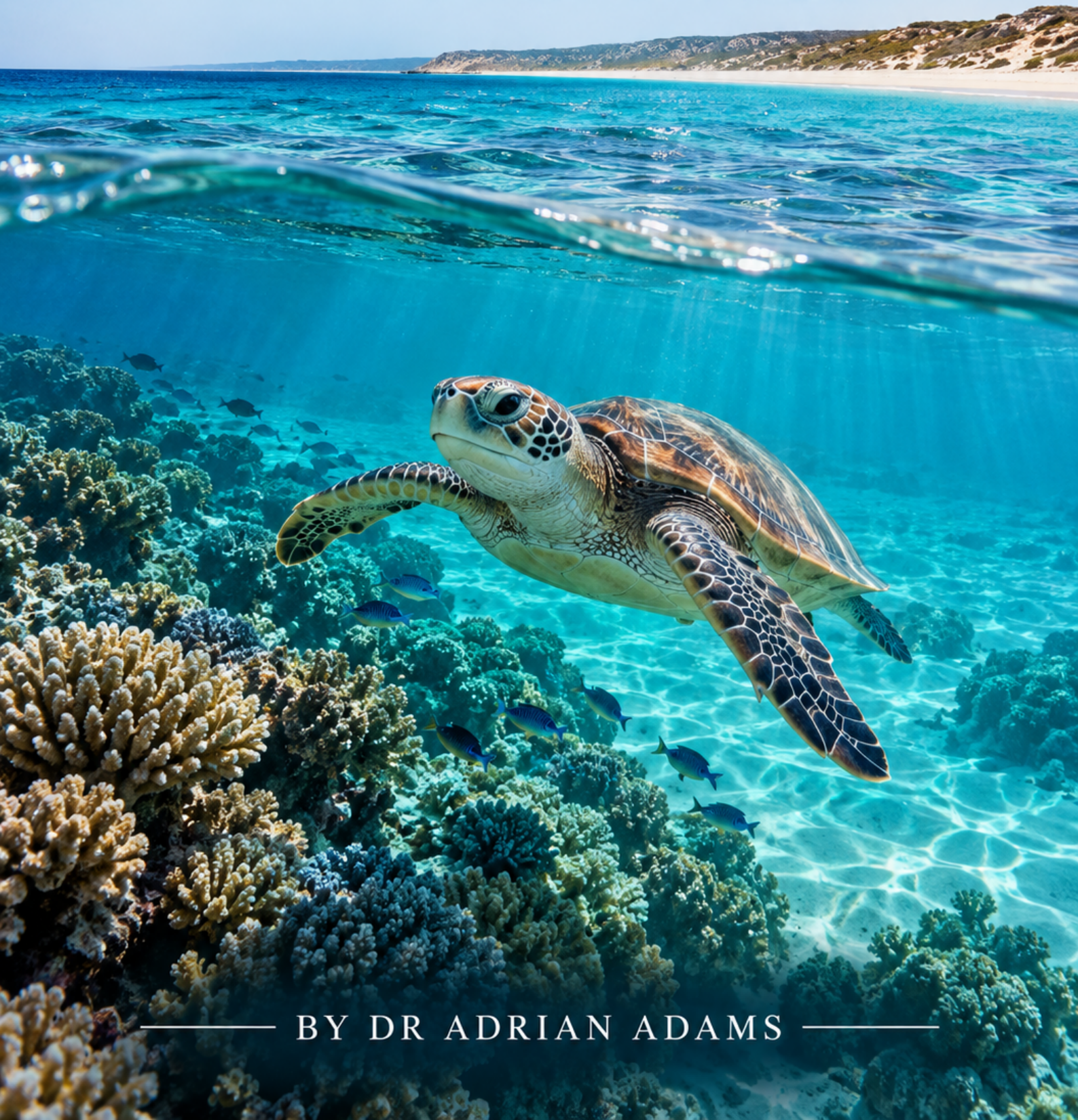


ENVIRONMENTAL LAW

— A STUDY AND TEACHING GUIDE —



— BY DR ADRIAN ADAMS —

PREFACE

Preface

BY DR ADRIAN ADAMS

This book is written for law students who want more than a collection of rules. It is designed to help students understand *why* environmental law exists, *how* its legislation fits together, *how* courts and decision-makers reason with it, and eventually *how a lawyer uses it to advise real people and organisations*.

Environmental law is an unusually practical legal discipline. It reaches into land development, property transactions, infrastructure, energy and resources, corporate governance, government decision-making, biodiversity, pollution, planning, contaminated land, environmental impact assessment, licensing, enforcement and litigation. A single project may require a lawyer to move between Commonwealth legislation, Queensland legislation, local planning controls, scientific reports, expert evidence and administrative decision-making.¹

For a student, that can initially feel fragmented. The purpose of this book is to make the structure visible. Every chapter begins with the problem the law is trying to solve, then moves through the legal architecture, the exact legislation, defined terms, statutory purpose, cases and authorities, evidence, application and practical consequences.

THE LEARNING JOURNEY

STUDENT -> LAWYER -> ADVISER. First learn what the rule means. Then learn how to find, interpret and apply it. Finally learn how to explain the risk, options and next steps to a client, developer, corporation, consultant, regulator, government department, financier, community organisation or other stakeholder.

¹ [Queensland Legislation](#) (Web Page).

Preface - continued

The book therefore treats environmental law as both an academic subject and a professional method. Students are shown how to identify issues, navigate Acts and subordinate legislation, check definitions, read objects clauses, use the *Acts Interpretation Act 1954* (Qld) and *Acts Interpretation Act 1901* (Cth), work with authority, understand expert evidence and convert legal analysis into advice.^{2, 3}

That progression is deliberate. University problem questions teach the same underlying discipline that legal practice demands: identify the decision-maker, identify the source of power or obligation, find the controlling provision, understand the statutory purpose, test the evidence against the legal elements, recognise uncertainty, and state what should happen next.

Environmental law also requires an understanding of values. Whether the law is protecting nature for human welfare, recognising the intrinsic value of ecosystems, or balancing ecological protection against development and social needs can shape statutory design and legal argument. For that reason, this book begins with anthropocentric, biocentric and ecocentric perspectives before moving into the legal meaning of the word *environment*.

The prescribed text for the subject is Gerry Bates, [Environmental Law in Australia](#)⁴ (LexisNexis Butterworths, 11th ed, 2023). It is an important secondary source and will be used throughout the project alongside the current primary law. This guide does not reproduce the prescribed text; it presents environmental law in its own original structure, informed by tertiary and professional education, experience and legal research, and directs students back to primary sources and authoritative research materials.

HOW TO USE AUTHORITY IN THIS BOOK

Blue links take the reader to legislation, cases or authoritative resources where a direct source is available. A legal proposition should ultimately be tied to the controlling source of law. Tertiary and professional education, practical experience and respected secondary commentary help explain the law; they are not substitutes for the law itself.

2. [Acts Interpretation Act 1954 \(Qld\)](#) ss 14A-14B.

3. [Acts Interpretation Act 1901 \(Cth\)](#) ss 15AA-15AB.

4. Gerry Bates, *Environmental Law in Australia* (LexisNexis Butterworths, 11th ed, 2023).

Preface - conclusion

Environmental law changes frequently. Departmental structures change, statutes are amended, standards are introduced and administrative responsibilities move. Students should develop the habit of checking the current authorised version of legislation and the current regulator before advising anyone. That is not merely an examination skill; it is a professional responsibility.

The central aim of this book is confidence through method. A student should finish a chapter knowing not only the legal rule, but also how to recognise the issue in facts, where to find the law, how to interpret it, what evidence matters, what can go wrong, and what a competent adviser would do next.

That is why the chapters deliberately move from **understanding**, to **application**, to **advice**. The reader first learns the concept in plain English, then the exact legal architecture, then the authorities and evidence, then how the same material appears in tutorials, examinations and professional decision-making.

May this book help you approach environmental law with clarity, discipline, curiosity and a growing sense of professional judgment.

PUBLICATION AND SOURCE NOTE

Publication and Source Note

ENVIRONMENTAL LAW - A STUDY AND TEACHING GUIDE is being developed from the author's tertiary and professional education, environmental law experience and a broader programme of legal research. The book is designed as an original teaching work rather than a reproduction of any seminar, transcript or prescribed textbook.

This book is informed by tertiary and professional education, practical experience, legal research, problem-based learning, tutorial and application exercises, and authoritative primary and secondary sources. Together, these help identify the concepts, statutes, cases, authorities and practical skills that students and future practitioners need to understand.

The prescribed secondary text is Gerry Bates, [*Environmental Law in Australia*](#)⁵ (LexisNexis Butterworths, 11th ed, 2023). It is treated as a major supporting source. Primary law remains controlling.

SOURCE HIERARCHY USED IN THIS BOOK

1. Current legislation and regulations. 2. Binding and persuasive judicial authority. 3. Official regulator/government materials. 4. Tertiary education, professional understanding and environmental law experience. 5. Prescribed and respected secondary commentary. Every chapter is written so students can see where explanation ends and legal authority begins.

5. Gerry Bates, *Environmental Law in Australia* (LexisNexis Butterworths, 11th ed, 2023).

Currency, accuracy and hyperlinks

Environmental law is particularly vulnerable to rapid change. A statute can be amended; a regulator can be renamed or restructured; a National Environment Standard can commence; a court can alter the interpretation of a provision; and administrative responsibility can move between agencies. For that reason, the electronic edition uses blue hyperlinks to authoritative current sources wherever technically possible.

Where legislation is cited, the book identifies the relevant Act and provision at section, subsection and paragraph level where that precision matters. Where a case is relied upon, the case name and citation are connected to a verified judgment source where available. Links are a research aid only: the legal proposition in the text remains tied to the cited authority.

The book also distinguishes historical teaching examples from current law. Older legislation and historical decisions remain important where they explain legal development, but a current problem must be answered using the current legal framework unless the question specifically asks for a historical position.

PUBLICATION PRINCIPLE

Never assume that an educational resource, textbook, summary or prior edition is current merely because it is useful. Verify the governing law before relying on it in an assessment, memorandum, opinion, client meeting, transaction, approval strategy or litigation.

CONTENTS

Table of Contents

Preface	1
Publication and Source Note	5
How to Use This Book	8
Interactive Glossary of Terms A-Z	11
Legal Research: Cases, Legislation and Authorities	15
Chapter 1 - Environmental Law: Context, Values, Evolution and Meaning	17
Environmental ethics and values	19
Evolution of environmental thought	22
Mon Repos and the meaning of environment	25
Reading environmental legislation properly	27
Experts, evidence and the lawyer's role	28
From law student to lawyer: the professional method	30
From student answer to client advice	32
Environmental Law problem solving in IRAC	33
End-of-Chapter FAQs and Answers	35
Multiple Choice Questions and Answers	38
Short Answer Questions and Model Answers	43
IRAC Problems and Model Answers	47
Chapter 1 Bibliography	53
Chapter 1 Resources	55

HOW TO USE THIS BOOK

How to Use This Book

Environmental Law becomes manageable when you know what to look for. Use this book as a working study guide: start with the facts, identify the environmental concern, determine which government level and decision-maker matter, find the controlling legislation, check the definitions and purpose, identify the cases and evidence, apply the law, and then state the practical consequence.

The learning method

THE CORE METHOD

**FACTS -> ISSUE -> SUB-ISSUES -> JURISDICTION -> DECISION-MAKER -> EXACT
LAW: ACT / PART / DIVISION / SECTION / SUBSECTION / PARAGRAPH ->
DEFINITIONS -> OBJECTS / PURPOSE -> INTERPRETATION ACT -> CASE /
AUTHORITY -> EXPERT EVIDENCE -> APPLICATION -> CONCLUSION -> ADVICE ->
NEXT STEP / APPROVAL / CONDITION / REVIEW / ENFORCEMENT RESPONSE.**

Start with the facts, but do not stop at the environmental concern. A lawyer must identify the legal pathway. Is the issue Commonwealth, Queensland, local, international or common law? Does the problem involve an approval, a prohibition, a licence, a referral, a condition, an offence, a judicial review ground or a civil dispute?

Read each chapter in three passes

PASS 1 - UNDERSTAND. Read the plain-English explanation and chapter narrative. Ask what problem the law is trying to solve and why the rule exists.

PASS 2 - MASTER THE LAW. Work through the exact statute, definitions, objects, interpretation provisions, cases, authorities and expert-evidence requirements.

PASS 3 - APPLY AND ADVISE. Use the tutorials, FAQs, multiple-choice questions, short-answer questions and IRAC problems. Then convert the legal conclusion into advice: what should the client, developer, organisation, consultant or decision-maker do next?

Prescribed and recommended text

The prescribed textbook is Gerry Bates, [*Environmental Law in Australia*](#)⁶ (LexisNexis Butterworths, 11th ed, 2023). Use it for deeper commentary, context, cases and statutory discussion. This book is designed to sit beside that text and direct the student back to current primary sources.

6. Gerry Bates, *Environmental Law in Australia* (LexisNexis Butterworths, 11th ed, 2023).

How the end-of-chapter learning suite works

Each chapter ends with a deliberate progression from recall to legal reasoning:

FAQs & Answers. Resolve the questions students most often ask and correct common misunderstandings.

Multiple Choice Questions. Test precise recognition of rules, cases, statutory structure and distinctions. Answers and explanations begin on the following page.

Short Answer Questions. Require the student to explain law in their own words. Model answers begin on the following page.

IRAC Problems. Move from doctrine to facts, law, application, conclusion and advice. Model answers begin on the following page.

Student -> Lawyer -> Adviser. The final revision page asks what the issue means for a real client or decision-maker.

FUN REVISION RESOURCE

Interactive Glossary of Terms

This glossary is an alphabetical revision resource. The **term itself is bold**. The blue bracketed subject label is a genuine internal hyperlink that takes the reader to the relevant teaching section in Chapter 1. The definition that follows is regular body text, the same size and weight as the rest of the book.

Study note: these are short-form revision definitions. For an assessment answer or legal advice, use the exact current legislation, full authorities and the detailed chapter explanation.

A

Acts Interpretation Act 1901 (Cth) [\[Statutory Interpretation\]](#) The Commonwealth interpretation statute. Sections 15AA-15AB are central to purposive interpretation and the controlled use of extrinsic materials.⁷

Acts Interpretation Act 1954 (Qld) [\[Statutory Interpretation\]](#) The Queensland interpretation statute. Sections 14A-14B guide purposive interpretation and the use of extrinsic materials.⁸

Anthropocentric [\[Environmental Ethics and Values\]](#) Human-centred. The environment is valued principally because of its instrumental contribution to human welfare, health, property, prosperity, culture or quality of life.

Anthropogenic change [\[Historical Development\]](#) Environmental change caused or accelerated by human activity.

B

Biocentric [\[Environmental Ethics and Values\]](#) A value position recognising inherent moral value in living beings. It is narrower than ecocentrism, which extends to ecological systems and relationships.

C

Controlled action [\[Commonwealth Environmental Regulation\]](#) An EPBC Act concept linking a proposed action to the Commonwealth approval regime where taking the action without approval would be prohibited by a relevant Part 3 provision.⁹

⁷. Acts Interpretation Act 1901 (Cth) ss 15AA-15AB.

⁸. Acts Interpretation Act 1954 (Qld) ss 14A-14B.

⁹. Environment Protection and Biodiversity Conservation Act 1999 (Cth) ss 67-69.

E

Ecocentric [[Environmental Ethics and Values](#)] Nature- and ecosystem-centred. Ecological systems and the natural world are treated as possessing intrinsic value independent of direct human benefit.

Environment [[Meaning of Environment](#)] A legally significant concept whose meaning depends on the governing statute, its definitions, context and purpose. Modern legislation commonly adopts broad ecological and human/social dimensions.

Environmental ethics [[Environmental Ethics and Values](#)] The study of values and norms governing relationships between humans and the natural world.

Environmental impact assessment [[Environmental Assessment](#)] A structured process for identifying, assessing and informing decisions about the environmental consequences of proposed actions or projects.

Expert evidence [[Experts and Evidence](#)] Scientific or technical evidence supplied by appropriately qualified experts. The lawyer identifies the legal test; the expert addresses the technical facts relevant to that test.

Extrinsic material [[Statutory Interpretation](#)] Material outside the enacted statutory text that may be considered in the circumstances permitted by interpretation legislation, such as explanatory materials or certain parliamentary materials.

I

Instrumental value [[Environmental Ethics and Values](#)] Value derived from usefulness to another end, commonly human welfare.

Intrinsic value [[Environmental Ethics and Values](#)] Value possessed independently of usefulness to humans.

L

Land ethic [[Historical Development](#)] Aldo Leopold's idea that humans should see themselves as members of a wider ecological community rather than conquerors of it.¹⁰

M

Mon Repos [[Meaning of Environment](#)] The Queensland turtle-rookery setting for the litigation culminating in *The Crown v Murphy*, used in this book to teach contextual interpretation of the word environment.¹¹

¹⁰. Aldo Leopold, *A Sand County Almanac, and Sketches Here and There* (Oxford University Press, 1949).

¹¹. *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

N

National Environmental Protection Agency [\[Institutions and Regulators\]](#) Australia's national environmental regulator, operating from 1 July 2026. Its functions and current delegations should always be checked against current official sources.^{12, 13}

NIMBY [\[Stakeholders and Environmental Values\]](#) “Not In My Back Yard”: shorthand for support or opposition shaped strongly by localised personal impacts. It is a descriptive stakeholder concept, not a legal test.

O

Objects clause [\[Statutory Interpretation\]](#) A provision stating or helping identify the purposes of legislation. It can be important when applying purposive interpretation.

P

Planning and Environment Court [\[Institutions and Regulators\]](#) A specialist Queensland court dealing with relevant planning and environmental disputes within its statutory jurisdiction.

Purposive interpretation [\[Statutory Interpretation\]](#) The method of preferring the interpretation that best achieves the purpose or object of an Act, subject to the statutory text and applicable interpretation legislation.

R

Rights of nature [\[Environmental Ethics and Standing\]](#) The idea that natural objects or ecological entities may possess legally recognised rights or interests capable of representation through guardians or other persons.

S

Sierra Club v Morton [\[Environmental Ethics and Standing\]](#) A 1972 United States Supreme Court case important to this chapter for standing, environmental injury and the debate about legal rights for nature.¹⁴

Standing [\[Environmental Litigation\]](#) The legal capacity of a person or organisation to bring a proceeding or seek review. The governing test depends on the jurisdiction and statutory framework.

^{12.} National Environmental Protection Agency, 'What is the National EPA?' (Web Page) <<https://www.nationalepa.gov.au/about/national-epa/what-is>>.

^{13.} [National Environmental Protection Agency Act 2025 \(Cth\)](#) ss 2-3.

^{14.} *Sierra Club v Morton*, 405 US 727 (1972).

Statutory definition [\[Reading Environmental Legislation\]](#) A definition enacted within legislation. Where applicable it controls the legal meaning of the defined term and may differ from scientific or ordinary usage.

Statutory purpose [\[Statutory Interpretation\]](#) The objective purpose or object of the legislation as revealed by its text, structure and legally relevant context.

T

The Crown v Murphy [\[Meaning of Environment\]](#) High Court authority used here to illustrate contextual interpretation of an undefined statutory reference to environment in the Mon Repos turtle-rookery setting.¹⁵

¹⁵. *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

LEGAL RESEARCH

Legal Research: Cases, Legislation and Authorities

Environmental Law is not learned from one textbook or one Act. A strong law student learns how to find the controlling legislation, identify the judicial authority behind a proposition, understand the legal effect of regulator materials, distinguish current law from historical material and then apply those sources to facts.

Research platforms students should know

[Federal Register of Legislation](https://www.legislation.gov.au/).¹⁶ Use the official Commonwealth source for current legislation, commencement information, amendments, instruments and historical versions.

[Queensland Legislation](https://www.legislation.qld.gov.au/).¹⁷ Use the official Queensland source for current Acts, regulations, subordinate legislation and legislative history.

[AustLII](https://www.austlii.edu.au/).¹⁸ A major free Australian legal research database. Use it to locate judgments, legislation and related authorities. Where this book provides a verified direct judgment link, use that direct source.

[National Environmental Protection Agency](https://www.nationalepa.gov.au/about/national-epa/what-is/).¹⁹ Use the current federal regulator's official site for national environmental regulatory information and current institutional arrangements.

¹⁶ Federal Register of Legislation (Web Page) <<https://www.legislation.gov.au/>>.

¹⁷ Queensland Legislation (Web Page) <<https://www.legislation.qld.gov.au/>>.

¹⁸ Australasian Legal Information Institute, AustLII (Web Page) <<https://www.austlii.edu.au/>>.

¹⁹ National Environmental Protection Agency, 'What is the National EPA?' (Web Page) <<https://www.nationalepa.gov.au/about/national-epa/what-is/>>.

Primary law before commentary

Secondary commentary is valuable because it explains structure, identifies authorities and helps a student see connections. It should not be mistaken for the controlling legal source. A useful research sequence is:

QUESTION -> CURRENT ACT / REGULATION -> DEFINED TERMS -> OBJECTS / PURPOSE -> CASES INTERPRETING THE PROVISION -> OFFICIAL REGULATOR MATERIAL -> SECONDARY COMMENTARY -> APPLICATION TO FACTS.

Know what source of law you are using

A statute creates legal rules. A regulation or other legislative instrument may add detail. A case interprets and applies law. Official guidance may explain regulatory practice but does not automatically have the same legal status as legislation. A textbook explains the law but does not enact it. Always identify the source and its legal weight.

RESEARCH DISCIPLINE

Before relying on a proposition, ask: What is the source? Is it current? Is it binding? Does it apply in this jurisdiction? Has later legislation or authority altered the position? Which exact provision or paragraph supports the proposition?

CHAPTER 1

ENVIRONMENTAL LAW: CONTEXT, VALUES, EVOLUTION AND MEANING

From understanding why environmental law exists to learning how a lawyer reads, applies and explains it.

THE LEARNING JOURNEY

STUDENT -> LAWYER -> ADVISER. First understand what the idea or rule means. Then learn how to find the controlling law, interpret it and apply it. Finally, learn how to explain the risk, options and next steps to a client, developer, corporation, consultant, regulator, government department, financier, community organisation or other stakeholder.

1.1 Why this chapter comes first

Environmental law is often introduced through statutes, approvals and offences. That is necessary, but it is not enough. A student who begins only with section numbers can quickly become lost because environmental legislation sits on top of deeper choices about how society values land, water, species, development, health, culture, economic activity and future generations.

This chapter therefore begins one step earlier. It asks why environmental protection is legally important, how environmental ideas changed over time, what lawyers mean by the word *environment*, and how Parliament turns those ideas into legislation. Those foundations matter later when the book moves into federal responsibility, international environmental law, environmental impact assessment, licensing, contaminated land, land clearing, business liability, common law and environmental litigation.

The objective is practical. By the end of the chapter, you should be able to move from an abstract environmental concern to a disciplined legal method: identify the relevant jurisdiction, find the Act, locate the operative provision, check the definitions, read the objects and purpose, apply the relevant interpretation legislation, identify the cases and evidence, then explain the outcome and next step.

THE CORE METHOD FOR THIS BOOK

FACTS -> ENVIRONMENTAL ISSUE -> JURISDICTION -> DECISION-MAKER ->
EXACT ACT / PART / DIVISION / SECTION / SUBSECTION / PARAGRAPH ->
DEFINITIONS -> OBJECTS / PURPOSE -> ACTS INTERPRETATION ACT -> CASE /
AUTHORITY -> SCIENTIFIC OR EXPERT EVIDENCE -> APPLICATION ->
CONCLUSION -> ADVICE -> NEXT STEP / APPROVAL / CONDITION / REVIEW /
ENFORCEMENT RESPONSE.

1.2 Environmental law is about relationships

Environmental law regulates the relationship between human activity and the environment. It is therefore broader than conservation law. A planning decision about housing, a mining approval, clearing native vegetation, pollution controls, the protection of threatened species, a road through habitat, contaminated land, a corporate acquisition and a judicial review application can all become environmental law problems.

The field is also interdisciplinary. Lawyers work with ecologists, planners, hydrologists, engineers, economists, heritage specialists, scientists and government officers. The experts answer scientific and technical questions. The lawyer identifies the legal test those experts must address, the evidence required to satisfy that test, the decision-maker who has power, the procedure that must be followed and the consequence if the law is breached.

Practice point. A good environmental lawyer does not try to become the ecologist, engineer or hydrologist. The lawyer must instead understand enough to frame the correct legal question for the expert and then translate the expert evidence back into the statutory test.

1.3 Environmental ethics: why values matter to law

Environmental ethics examines the values and norms that govern relationships between humans and the natural world. In a law subject this may initially seem philosophical rather than legal. It matters because environmental statutes are created within political and social systems. Parliament decides what to protect, what to regulate, what to permit, what to prohibit, what evidence to require and which interests a decision-maker must consider.

Those choices are influenced by different views about the value of nature. The Week 1 seminar frames two principal positions on a spectrum: **anthropocentric** values and

ecocentric values. The point is not that one end of the spectrum cares about the environment and the other does not. Both can support environmental protection. Their reasons for doing so are different.

1.4 Anthropocentrism: nature valued through human welfare

Anthropocentric reasoning is human-centred. The environment is valuable because it contributes to human welfare, health, safety, comfort, prosperity, recreation, culture or quality of life. This is sometimes described as **instrumental value**: nature is valuable because of the benefit it provides to people.

Anthropocentrism can justify strong environmental protection. Clean air matters because pollution causes disease. Wetlands may be protected because they reduce flooding and improve water quality. Forests may be protected because they provide recreation, water catchment functions and climate benefits. A reef may be protected because it supports tourism, food, cultural identity and economic activity.

The distinction appears when environmental protection conflicts with another human interest. An anthropocentric decision-maker may be more willing to accept environmental damage where the countervailing human benefit is sufficiently important. Cost, convenience, housing, jobs, infrastructure or health care may therefore become central to the balance.

1.5 Ecocentrism: nature has value in its own right

Ecocentric reasoning treats ecosystems and nature as having **intrinsic value**. Protection is justified even where no immediate human benefit can be demonstrated. Species, habitats, rivers, forests, reefs and ecological processes matter because they are part of a functioning ecological community.

An ecocentric perspective therefore asks a different question. Instead of asking only what the environment does for people, it asks what the ecosystem needs in order to remain healthy, intact and resilient. That may justify protection even where conservation imposes economic costs or restricts development.

EASY WAY TO REMEMBER THE DIFFERENCE

Anthropocentric: protect nature **for people**.

Biocentric: protect **living things** because they have value.

Ecocentric: protect the **whole ecological system** because nature itself has value.

1.6 Biocentrism: the value of living things

Biocentrism is a useful third concept. It focuses on the inherent value of living beings. Ecocentrism is broader because it can include the integrity of habitats, water systems, soils and the relationships between living and non-living components of ecosystems.

In legal analysis, these labels are explanatory tools rather than substitutes for statutory interpretation. A statute may contain ecocentric language about ecosystems and biodiversity while also requiring consideration of communities, economic consequences and development. Modern environmental law is often *integrated* or *hybrid* rather than purely anthropocentric or purely ecocentric.

1.7 The spectrum matters more than the label

Environmental disputes rarely fit into clean philosophical boxes. Consider a proposal to clear a wetland for a hospital. A strongly ecocentric response may emphasise irreversible habitat loss. An anthropocentric response may emphasise access to essential medical care. A pluralist position may accept that both interests matter and ask whether the need can be met through a lower-impact alternative.

This is why the seminar treats environmental values as a spectrum. In tutorials, assessments and practice, the better analysis usually identifies the competing values, explains why they conflict and then moves to the legal framework that determines how the conflict is resolved.

HISTORICAL DEVELOPMENT

1.8 The evolution of environmental thought

Modern environmental law developed over time. Early legal controls often protected property, public health or access to resources rather than the environment for its own sake. During the twentieth century, scientific understanding and environmental writing increasingly challenged the assumption that nature existed principally for human use.

1700s-1800s	Industrialisation accelerates extraction, urbanisation and large-scale transformation of land and resources.
1949	Aldo Leopold's <i>A Sand County Almanac</i> advances a "land ethic" and challenges the idea of humanity as conqueror of nature. ²⁰
1962	Rachel Carson's <i>Silent Spring</i> draws public attention to the far-reaching effects of pesticides such as DDT. ²¹
1971-1972	<i>The Lorax</i> , Christopher Stone's "Should Trees Have Standing?" and <i>Sierra Club v Morton</i> bring the idea of speaking for nature into public and legal debate. ^{22, 23, 24}
1970s onward	Modern environmental statutes, environmental impact assessment systems and specialist regulatory institutions expand.
1990s onward	International environmental conferences, treaties and sustainable-development principles increasingly influence domestic law.
2026	Australian environmental law continues to change, including the operation of the National Environmental Protection Agency from 1 July 2026. ^{25, 26}

1.9 Aldo Leopold: from conqueror to member of the ecological community

Aldo Leopold's 1949 work *A Sand County Almanac* is important because it challenged the prevailing anthropocentric assumption that humans stand above nature. His "land ethic" proposed that humans should understand themselves as members of a wider ecological community.²⁷

²⁰ Aldo Leopold, *A Sand County Almanac, and Sketches Here and There* (Oxford University Press, 1949).

²¹ Rachel Carson, *Silent Spring* (Houghton Mifflin, 1962).

²² Dr Seuss, *The Lorax* (Random House, 1971).

²³ Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

²⁴ *Sierra Club v Morton*, 405 US 727 (1972).

²⁵ National Environmental Protection Agency, 'What is the National EPA?' (Web Page).

²⁶ *National Environmental Protection Agency Act 2025 (Cth)* ss 2-3.

For law students, the significance is not that Leopold created a legal rule. He did not. His importance is conceptual. Environmental law later began to reflect a similar shift: ecosystems, biodiversity and ecological integrity increasingly appeared as objects of legal protection rather than as matters protected only because of their usefulness to people.

1.10 Rachel Carson: environmental harm can travel through systems

Rachel Carson's *Silent Spring* (1962) exposed the broader ecological consequences of pesticide use, especially DDT. A chemical applied to one target could affect many species, move through waterways and food chains, and ultimately affect human health as well.²⁸

The deeper legal lesson is that environmental harm may be indirect, cumulative and delayed. Environmental regulation therefore cannot always wait for visible damage. Modern environmental assessment and precautionary approaches are partly responses to this difficulty: by the time harm is obvious, it may be costly or impossible to reverse.

1.11 Christopher Stone and the idea of legal rights for nature

Christopher D Stone, a law professor, attempted to translate environmental ethics into legal doctrine. In [“Should Trees Have Standing? - Toward Legal Rights for Natural Objects” \(1972\) 45 Southern California Law Review 450](#)²⁹, Stone argued that legal systems are capable of recognising legal interests in entities that cannot act personally and must be represented through human agents.

Stone's question was radical for its time: if corporations and other legal entities can possess legally recognised interests, could a river, forest or other natural object also be represented before a court? Whether or not a legal system accepts that proposition, the article changed the way environmental standing and rights of nature could be discussed.

1.12 Sierra Club v Morton: standing and the difficulty of speaking for nature

[Sierra Club v Morton, 405 US 727 \(1972\)](#)³⁰

Facts. The Sierra Club challenged federal action connected with a major ski-development proposal in Mineral King Valley. It relied on the environmental and

²⁷ Aldo Leopold, *A Sand County Almanac, and Sketches Here and There* (Oxford University Press, 1949).

²⁸ Rachel Carson, *Silent Spring* (Houghton Mifflin, 1962).

²⁹ Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

aesthetic importance of the area but did not allege that the organisation or its members themselves would suffer the necessary injury.

Issue. Was a special interest in environmental protection enough to establish standing?

Holding. The majority held that environmental and aesthetic injury could be legally cognisable, but the plaintiff had to show injury to itself or its members. Sierra Club had not done so on the pleaded case.

Why it matters. Justice Douglas's dissent argued for a more ecocentric model in which natural objects could effectively be represented by guardians. For Australian students, the decision is not binding authority. Its importance here is conceptual: it places the rights-of-nature debate on a legal stage.

THE LEGAL MEANING OF “ENVIRONMENT”

1.13 Why definitions matter

In environmental law, ordinary words often have statutory meanings. The word *environment* is a good example. A statutory definition can determine what a decision-maker must consider, what counts as environmental harm, what an approval can regulate and whether an offence or duty is engaged.

The first professional habit is therefore simple: **never assume you know what a statutory word means until you have checked the Act.** The Week 1 seminar repeatedly emphasises the need to move between the operative provision, the Act's dictionary, surrounding provisions and subordinate legislation.

1.14 The Mon Repos case and the meaning of “environment”

The Mon Repos litigation arose from a proposed residential subdivision near the well-known turtle rookery at Mon Repos on the Queensland coast. The governing legislation required the decision-maker to consider whether the proposal would cause a deleterious effect on “the environment”, but it did not define the word.

The legal problem was therefore not simply whether turtles are important. The problem was interpretive: what did *environment* mean in the particular statutory context, and what was the relevant reference point?

The Crown v Murphy [1990] HCA 42; (1990) 64 ALJR 593³¹

³⁰. *Sierra Club v Morton*, 405 US 727 (1972).

Rule and reasoning. The High Court explained that what constitutes the relevant environment must be identified by reference to the person, object or group surrounded or affected. The land the subject of the proposal was surrounded by coastal land used by turtles as a rookery. A use of the land that reduced turtle use or hatchling survival could alter a feature of that surrounding land and therefore alter the environment of the subject land.

Exam point. Do not reduce the case to “turtles are the environment”. The stronger statement is that the statutory word was interpreted contextually and that the turtle rookery was a feature of the relevant surrounding environment.

1.15 How statutes define the environment

Definitions have evolved. Older legislation sometimes described the environment mainly by reference to human surroundings. Modern legislation more commonly includes ecosystems, natural and physical resources, places, ecological relationships, heritage and social, economic or cultural conditions.

This does not mean every modern definition is purely ecocentric. A contemporary definition may recognise ecosystems and intrinsic ecological value while also expressly including people, communities and economic conditions. That is why a lawyer must apply the enacted wording rather than impose a philosophical label on the statute.

1.16 Current Queensland definition - Environmental Protection Act 1994 (Qld) s 8

The current [Environmental Protection Act 1994 \(Qld\)](#)³² uses an inclusive definition. Section 8 includes:

- ecosystems and their constituent parts, including people and communities;
- all natural and physical resources;
- the physical characteristics of locations, places and areas;
- the physical surroundings of people, including land, waters, atmosphere, climate, sound, odours and tastes; and
- social, economic, aesthetic and cultural conditions that affect, or are affected by, the preceding matters.

^{31.} [The Crown v Murphy](#) [1990] HCA 42; (1990) 64 ALJR 593.

^{32.} [Environmental Protection Act 1994 \(Qld\) s 8.](#)

Current-law alert. Section 8 was amended in 2024. When older educational materials reproduce earlier wording, a current-law problem should be checked against the authorised current legislation.

1.17 Commonwealth definition - EPBC Act s 528

The [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#)³³ contains an extensive general dictionary in s 528. The Act's definition of *environment* is broad and supports a national regime concerned with ecosystems, natural resources, places, heritage and social, economic and cultural aspects.

For a lawyer, the important method is not to memorise a definition in isolation. Read the definition together with the specific protected matter, approval test, object and decision-making provision that makes the definition legally relevant.

³³. [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\) s 528](#).

STATUTORY INTERPRETATION

1.18 Reading environmental legislation properly

Environmental law is statute-heavy. The ability to navigate and interpret legislation is therefore a core professional skill. It is not enough to locate a section that looks relevant. You must determine how the section fits into the Act, whether key terms are defined, whether exceptions or subordinate instruments apply, what purpose the Act serves and how courts have interpreted the provision.

**TEXT -> DEFINITION -> CONTEXT -> OBJECTS / PURPOSE ->
INTERPRETATION ACT -> EXTRINSIC MATERIAL (WHERE PERMITTED) ->
CASE LAW -> EVIDENCE -> APPLICATION -> CONSEQUENCE.**

1.19 What did Parliament intend?

Students often say that statutory interpretation is about discovering “what Parliament intended”. That is useful shorthand only if it is expressed carefully. Courts do not ordinarily search for the private mental state of an individual minister or parliamentarian. The task is objective: interpret the enacted text in context and in a way that best achieves the statutory purpose or object, using legally recognised interpretive materials where appropriate.

This matters in environmental law because legislation often reflects compromise. An Act may pursue environmental protection while also establishing workable approval processes, recognising social or economic conditions, allocating responsibility between levels of government, or creating enforcement and review pathways.

1.20 Queensland - Acts Interpretation Act 1954 (Qld) ss 14A-14B

[Section 14A of the Acts Interpretation Act 1954 \(Qld\)](#)³⁴ requires the interpretation that will best achieve the purpose of the Act to be preferred. The rule applies whether or not the purpose is expressly stated, subject to the statutory limits.

Section 14B permits consideration of relevant extrinsic material capable of assisting interpretation in the circumstances specified by the section. Examples include explanatory notes, certain reports, treaties mentioned in the Act and the speech introducing the Bill.

³⁴. [Acts Interpretation Act 1954 \(Qld\)](#) ss 14A-14B.

HOW TO USE THIS IN A PROBLEM

Do not simply cite s 14A and move on. First identify the competing interpretations. Then explain the Act's purpose and why one interpretation better achieves that purpose. If you use extrinsic material, explain what material it is and why the legislation permits you to consider it.

1.21 Commonwealth - Acts Interpretation Act 1901 (Cth) ss 15AA-15AB

[Section 15AA of the Acts Interpretation Act 1901 \(Cth\)](#)³⁵ requires the interpretation that would best achieve the purpose or object of the Act to be preferred. Section 15AB governs consideration of extrinsic material capable of assisting the ascertainment of meaning.

These provisions are especially important when working with Commonwealth environmental legislation such as the EPBC Act. The practical sequence remains the same: start with text, read the provision in context, identify purpose, check definitions and then use cases or extrinsic material where relevant.³⁶

1.22 Scientific meaning and legal meaning are not always identical

Scientists may use terms according to their discipline. Legislation may define the same term differently. That is not a mistake; it is a feature of statutory law. An ecologist may explain what constitutes habitat, a hydrologist may describe a catchment, and a planner may assess land use. The lawyer must then identify whether the legislation adopts, modifies or replaces the scientific concept with a legal definition.

Professional habit. Before briefing an expert, identify the exact statutory question the expert needs to answer. An excellent scientific report can still be legally unhelpful if it does not address the relevant statutory test.

³⁵. [Acts Interpretation Act 1901 \(Cth\) ss 15AA-15AB](#).

³⁶. [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#).

FROM LAW STUDENT TO LAWYER

1.23 The professional method

Environmental legal work usually begins before litigation. A client may want to know whether a development can proceed, whether an approval is required, whether land can be cleared, whether contamination creates a disclosure or remediation issue, whether a federal referral is required, or whether a regulator's decision can be challenged.

The lawyer's first job is therefore to organise the problem. The following method can be used throughout this book.

Step	Question	Professional purpose
1	What activity is proposed or what harm has occurred?	Define the factual action precisely.
2	Where is the site and who is acting?	Identify jurisdiction, land tenure, government level and potential statutory regimes.
3	What environmental values or protected matters may be affected?	Identify habitat, species, water, heritage, contamination, emissions, vegetation or other triggers.
4	Which Act and operative provision control?	Move from environmental concern to legal rule.
5	What definitions, objects, exceptions and instruments matter?	Read the statutory scheme as a whole.
6	What evidence is required?	Brief the correct experts and collect factual material.
7	Who decides and what procedure applies?	Map referral, assessment, application, consultation and decision pathways.
8	What are the risks?	Identify delay, refusal, conditions, offences, civil penalties, remediation, review and reputational exposure.
9	What should the client do next?	Give clear advice, not merely legal description.

1.24 Example: advising a developer before site acquisition

Assume a developer is considering purchasing land for a residential project. The land contains native vegetation, a drainage line and possible habitat for a listed threatened species. The client asks a simple commercial question: "Can we develop it?"

A poor answer is: “Environmental approvals may be required.” A useful legal answer identifies the investigation pathway. Before acquisition, the lawyer should consider the site's planning controls, State environmental legislation, vegetation constraints, species records, Commonwealth protected-matter risk, water issues, heritage and any contamination history. The lawyer may recommend ecological due diligence and searches before the client becomes contractually committed.

If a potential Commonwealth protected matter is identified, the lawyer should assess whether the proposed action may engage the EPBC referral and approval regime. Section 67 defines a controlled action; s 67A prohibits taking a controlled action without the required approval or recognised legal basis; s 68 deals with referral by the person proposing the action; and s 69 permits a State, Territory or relevant agency to refer a proposal in the circumstances specified.

The point is not that every project goes to the Commonwealth. The point is to identify whether a federal trigger exists instead of assuming that State planning approval is the whole answer.

1.25 Current federal institutional context

The [National Environmental Protection Agency](#)³⁷ began operating on 1 July 2026. It is Australia's national environmental regulator and brings together regulatory functions under national environmental laws, including assessment and approvals functions under the updated EPBC framework.,^{38, 39}

Institutional change reinforces an important research lesson: environmental law changes. A textbook can teach the structure and method, but a lawyer must still verify the current statute, current agency, current delegation and current regulatory process before giving advice.

1.26 The cost of getting environmental advice wrong

Environmental mistakes can produce more than an administrative inconvenience. They may cause project delay, refusal, remediation obligations, civil penalties, criminal prosecution, legal costs and reputational damage. The Week 1 seminar uses the Taylors Beach prosecution to demonstrate this professional risk.⁴⁰

Gordon Plath ... v Fish; ... v Orogen Pty Ltd [2010] NSWLEC 144⁴¹

A consultant had accepted a role involving legislative compliance for vegetation-clearing works. The clearing affected koala habitat and movement corridors. The

³⁷. National Environmental Protection Agency, 'What is the National EPA?' (Web Page) <<https://www.nationalepa.gov.au/about/national-epa/what-is>>.

³⁸. [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#).

³⁹. [National Environmental Protection Agency Act 2025 \(Cth\)](#) ss 2-3.

adviser and company were prosecuted. Orders included fines, habitat-mapping work, publication orders and prosecution costs.

Why it matters. A lawyer or consultant cannot safely rely on assumptions about whether an approval or licence is required. Statutory due diligence is a professional discipline. The cost of being wrong can greatly exceed the original professional fee.

1.27 From student answer to client advice

THE DIFFERENCE IN WRITING STYLE

Student answer: identify the issue, state the rule with exact authority, apply the facts and reach a conclusion.

Client advice: explain the conclusion in practical terms, identify uncertainty, quantify or describe the risk, identify information still required, and recommend the next step.

A client does not usually need a lecture on every legal principle. The client needs to know what the law means for the project or decision. The lawyer's work behind the advice may be complex; the advice itself should be clear.

1.28 How to write an Environmental Law problem in IRAC form

Issue	Identify the proposed action, environmental harm or decision, the relevant jurisdiction, decision-maker and legal trigger. Break broad disputes into separate legal issues.
Rule / Law	Start with the exact Act and operative provision. Add definitions, objects, interpretation provisions, exceptions, regulations and the cases that explain the rule.
Application	Apply one fact to one legal element at a time. Use expert evidence where the statute requires factual or scientific judgment. Address the strongest alternative argument.
Conclusion	

41. [Gordon Plath of the Department of Environment and Climate Change v Fish; Gordon Plath of the Department of Environment and Climate Change v Orogen Pty Ltd](#) [2010] NSWLEC 144.

40. [Gordon Plath of the Department of Environment and Climate Change v Fish; Gordon Plath of the Department of Environment and Climate Change v Orogen Pty Ltd](#) [2010] NSWLEC 144.

State the likely legal consequence, then add the practical next step:

referral, further studies, approval application, condition negotiation, review, compliance action or other response.

1.29 Chapter synthesis

- Environmental law is a body of law that manages relationships between human activity and the environment.
- Anthropocentric, biocentric and ecocentric perspectives explain different reasons for environmental protection.
- Modern environmental statutes often combine ecological, social, cultural and economic values.
- Leopold, Carson and Stone help explain the historical movement toward recognising ecological systems and intrinsic value.
- *Sierra Club v Morton* illustrates the difficulty of translating rights-of-nature ideas into standing doctrine.⁴²
- *The Crown v Murphy* shows why statutory context and the relevant reference point matter when interpreting “environment”.⁴³
- Environmental Protection Act 1994 (Qld) s 8 provides a current broad definition of environment.⁴⁴
- Acts Interpretation Act 1954 (Qld) ss 14A-14B and Acts Interpretation Act 1901 (Cth) ss 15AA-15AB are central interpretive tools.^{45, 46}
- Good environmental legal practice depends on accurate statutory navigation, current-law research and properly framed expert evidence.
- The professional endpoint is advice: tell the client what the law means, the risk, the evidence needed and the next step.

42. *Sierra Club v Morton*, 405 US 727 (1972).

43. *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

44. *Environmental Protection Act 1994 (Qld)* s 8.

45. *Acts Interpretation Act 1954 (Qld)* ss 14A-14B.

46. *Acts Interpretation Act 1901 (Cth)* ss 15AA-15AB.

CHAPTER 1 LAWYER'S CHECKLIST

1. What is the environmental concern?
2. What value conflict sits beneath it?
3. Which level of government has the relevant statutory role?
4. What Act and operative provision control?
5. What does the Act define?
6. What is the statutory purpose?
7. What interpretation legislation applies?
8. What cases or authorities explain the provision?
9. What expert evidence is required?
10. What should the client do next?

FREQUENTLY ASKED QUESTIONS & ANSWERS

Chapter 1 FAQs & Answers

FAQ 1. Is anthropocentrism anti-environment?

No. Anthropocentric reasoning can support extensive environmental protection. The difference is the reason: protection is justified because environmental quality contributes to human welfare. The position becomes most visible when protection conflicts with another important human interest.

FAQ 2. Is ecocentrism the same as biocentrism?

No. Biocentrism focuses on the inherent value of living beings. Ecocentrism is broader and includes ecological systems, habitats, relationships and physical components of ecosystems.

FAQ 3. Why do lawyers care about environmental philosophy?

Because values help explain statutory objects, definitions, protected matters and policy choices. Philosophy does not replace the legal rule, but it helps explain why the legal rule exists and how competing arguments are framed.

FAQ 4. What is the safest way to use *The Crown v Murphy*?⁴⁷

Use it as an example of contextual statutory interpretation. Do not state simply that “turtles are the environment”. Explain that the relevant environment was identified by reference to the land and its surroundings, and the turtle rookery was a feature of that environment.

⁴⁷. *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

FAQ 5. Do I always use an ordinary dictionary first?

No. First check whether the Act defines the word. A statutory definition controls where applicable. Ordinary meaning becomes more important where the legislation does not define the term or the definition still leaves an interpretive question.

FAQ 6. What does “purpose” mean in statutory interpretation?

It means the objective statutory purpose or object revealed by the enacted text, structure and legally relevant context. It is not simply the private subjective intention of an individual member of Parliament.

FAQ 7. Should I cite tertiary or professional educational material as legal authority?

No. Tertiary and professional education, practical experience and textbooks can help explain the law, but a legal proposition should ultimately be tied to legislation, a case, an authorised regulatory source or another legally relevant authority.

FAQ 8. Why is current-law checking so important in Environmental Law?

Because statutes, agency structures, delegations, standards and regulatory processes change. The current Queensland s 8 and the commencement of the National EPA in 2026 are examples of why historical tertiary and professional educational material must be checked against current authorised sources.⁴⁸

49

⁴⁸. National Environmental Protection Agency, [‘What is the National EPA?’](#) (Web Page).

⁴⁹. *Environmental Protection Act 1994* (Qld) s 8.

CHAPTER 1 MASTERY QUIZ - MULTIPLE CHOICE

Chapter 1 Mastery Quiz - Multiple Choice

1. Anthropocentric environmental value is best described as:

- A. value that exists only in non-living things
- B. value nature has because of its contribution to human welfare
- C. a rule giving ecosystems legal personality
- D. a rule requiring every development to be refused

2. Ecocentric reasoning is most closely associated with:

- A. intrinsic value in ecological systems
- B. taxation of environmental harm
- C. private property rights only
- D. human convenience as the sole value

3. Christopher Stone's 1972 article is significant because it:

- A. enacted the EPBC Act
- B. abolished standing rules
- C. argued for legal rights for natural objects
- D. created Queensland's Planning and Environment Court^{50, 51}

4. In *Sierra Club v Morton*, the majority held that:

- A. natural objects automatically had standing
- B. Sierra Club lacked standing because it did not allege injury to itself or its members
- C. all environmental claims were non-justiciable
- D. Disney's project was approved by the Supreme Court⁵²

⁵⁰. Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

⁵¹. [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#).

⁵². *Sierra Club v Morton*, 405 US 727 (1972).

5. The best way to state *The Crown v Murphy* is:

- A. every animal is legally the environment
- B. the High Court treated statutory meaning as context-dependent and linked turtle use of surrounding land to the relevant environment
- C. dictionaries can never be used
- D. environmental statutes must always be interpreted ecocentrically⁵³

6. Under Environmental Protection Act 1994 (Qld) s 8, “environment”:

- A. means only land and water
- B. excludes people and communities
- C. includes ecosystems, resources, places, physical surroundings of people and relevant social/economic/aesthetic/cultural conditions
- D. is undefined⁵⁴

7. Acts Interpretation Act 1954 (Qld) s 14A primarily requires:

- A. the narrowest possible interpretation
- B. an interpretation favouring development
- C. the interpretation that best achieves the purpose of the Act
- D. use of ministerial speeches in every case⁵⁵

8. Acts Interpretation Act 1901 (Cth) s 15AB deals with:

- A. extrinsic material
- B. criminal sentencing
- C. standing
- D. environmental impact statements⁵⁶

⁵³. *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

⁵⁴. *Environmental Protection Act 1994* (Qld) s 8.

⁵⁵. *Acts Interpretation Act 1954* (Qld) ss 14A-14B.

⁵⁶. *Acts Interpretation Act 1901* (Cth) ss 15AA-15AB.

9. A controlled action under the EPBC framework is relevant because:

- A. every State approval is automatically federalised
- B. an action may require federal approval where a relevant Part 3 prohibition would otherwise apply
- C. only Commonwealth agencies can refer actions
- D. local government approval replaces federal approval⁵⁷

10. The best professional response to an environmental-law problem is to:

- A. start with tertiary teaching material and stop there
- B. assume technical terms have ordinary meaning
- C. identify facts, jurisdiction, exact law, definitions, purpose, evidence, application and next step
- D. rely on one textbook regardless of amendments

⁵⁷. *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ss 67-69.

ANSWERS AND EXPLANATIONS

Chapter 1 Mastery Quiz - Answers and Explanations

1. **B.** Anthropocentrism values environmental protection because of its instrumental benefit to humans.

2. **A.** Ecocentrism recognises intrinsic value in ecological systems and nature.

3. **C.** Stone argued that legal systems could recognise rights or legally cognisable interests in natural objects.⁵⁸

4. **B.** The majority required injury to the plaintiff or its members; Sierra Club had not pleaded that injury.⁵⁹

5. **B.** The case is about contextual statutory meaning and the environmental features surrounding the land.⁶⁰

6. **C.** Current s 8 is broad and expressly includes ecological, physical and human/social dimensions.⁶¹

7. **C.** Section 14A is a purposive interpretation provision.⁶²

⁵⁸ Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

⁵⁹ *Sierra Club v Morton*, 405 US 727 (1972).

⁶⁰ *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

⁶¹ *Environmental Protection Act 1994* (Qld) s 8.

⁶² *Acts Interpretation Act 1954* (Qld) ss 14A-14B.

8. A. Section 15AB regulates the use of extrinsic material in interpreting Commonwealth Acts.⁶³

9. B. Controlled-action status links a proposed action to the federal approval regime where Part 3 would otherwise prohibit the action without approval.⁶⁴

10. C. The professional method integrates factual, statutory, interpretive, evidentiary and practical analysis.

^{63.} *Acts Interpretation Act 1901* (Cth) ss 15AA-15AB.

^{64.} *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ss 67-69.

SHORT ANSWER QUESTIONS

Chapter 1 Short Answer Questions

1. Explain the difference between instrumental value and intrinsic value.

2. Why is the anthropocentric/ecocentric distinction best understood as a spectrum?

3. What contribution did Aldo Leopold make to environmental thought?⁶⁵

4. What is the legal significance of Christopher Stone's "Should Trees Have Standing?" for this chapter?⁶⁶

5. Explain the central interpretive lesson from *The Crown v Murphy*.⁶⁷

6. Why should Environmental Protection Act 1994 (Qld) s 8 be checked in the current authorised legislation rather than copied from older educational material?⁶⁸

7. Explain how Acts Interpretation Act 1954 (Qld) s 14A changes the way a student should approach ambiguous environmental legislation.⁶⁹

8. Why is expert evidence important in environmental law, and what is the lawyer's role in relation to that evidence?

⁶⁵ Aldo Leopold, *A Sand County Almanac, and Sketches Here and There* (Oxford University Press, 1949).

⁶⁶ Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

⁶⁷ *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

⁶⁸ *Environmental Protection Act 1994* (Qld) s 8.

⁶⁹ *Acts Interpretation Act 1954* (Qld) ss 14A-14B.

SHORT ANSWER MODEL ANSWERS

Chapter 1 Short Answer Model Answers

1. Instrumental value is value derived from usefulness to another end, commonly human welfare. Intrinsic value is value that exists independently of usefulness to humans.

2. Both positions can support environmental protection. They differ in justification and in how they respond when environmental protection conflicts with human cost, convenience or development. Real-world positions often fall between the two ends.

3. Leopold's land ethic challenged human moral superiority over nature and described humans as members of an ecological community rather than conquerors of it. The importance is conceptual rather than statutory.⁷⁰

4. Stone attempted to translate ecocentric ethics into legal form by arguing that natural objects could possess legally recognised rights or interests represented through guardians.⁷¹

5. The meaning of an undefined statutory term must be found contextually. The High Court identified the relevant environment by reference to the land and its surrounding features, including the turtle rookery.⁷²

6. Environmental statutes are amended. The current authorised s 8 differs from older wording and is the correct starting point for a present-day legal problem.⁷³

⁷⁰ Aldo Leopold, *A Sand County Almanac, and Sketches Here and There* (Oxford University Press, 1949).

⁷¹ Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

⁷² *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

⁷³ *Environmental Protection Act 1994* (Qld) s 8.

7. Section 14A requires the interpretation that best achieves the Act's purpose. A student should therefore identify competing interpretations, identify statutory purpose and explain why the preferred construction better advances that purpose.⁷⁴

8. Environmental legal tests frequently depend on scientific facts. Experts provide the technical evidence; the lawyer identifies the statutory test, frames the questions for the expert and explains how the evidence satisfies or fails to satisfy the legal elements.

⁷⁴ *Acts Interpretation Act 1954 (Qld)* ss 14A-14B.

IRAC PROBLEM QUESTIONS

Chapter 1 IRAC Problem Questions

IRAC Question 1 - Undefined “environment” and a turtle rookery

A Queensland local authority is required by a hypothetical older statute to consider whether a proposed coastal subdivision will cause a “deleterious effect on the environment”. The Act does not define environment. Ecologists advise that increased lighting and vehicle movement are likely to reduce nesting success on an adjoining turtle rookery. Advise how a court should approach the meaning of environment.

IRAC Question 2 - Developer near threatened-species habitat

A developer proposes 600 residential lots on land containing potential habitat for a nationally listed threatened species. State planning approval appears achievable. The developer asks whether the State approval is enough to start clearing. Identify the environmental-law steps a lawyer should take before advising that works may commence.

IRAC Question 3 - Professional advice and unlawful clearing

An environmental consultant is retained to “ensure all environmental approvals for clearing are identified”. The consultant advises that no further approval is required. Clearing begins and destroys protected habitat. A regulator alleges that a licence was in fact required. Explain the legal and professional issues that should be investigated before advising the consultant and its director.

IRAC MODEL ANSWERS

Chapter 1 Detailed IRAC Model Answers

IRAC Answer 1 - Undefined “environment” and a turtle rookery

Issue

What does “environment” mean where the governing statute does not define it, and can predicted effects on turtle nesting amount to a deleterious effect on the environment of the proposed subdivision land?

Rule

Begin with the statutory text and context. Where the term is undefined, ordinary meaning may assist, but the provision must be read purposively. In Queensland, Acts Interpretation Act 1954 (Qld) s 14A requires the interpretation that best achieves the Act's purpose. The Crown v Murphy illustrates that the relevant environment is identified by reference to the object or land surrounded or affected and that the turtle rookery can be a feature of that surrounding environment.^{75 76}

Application

The subdivision land adjoins a turtle rookery. The ecological evidence links lighting and traffic generated by the proposed use to reduced nesting success. The court should therefore consider whether that predicted change alters a feature of the surrounding coastal environment relevant to the land rather than artificially separating the turtles from their habitat.

Conclusion

There is a strong basis to treat the predicted effect on the rookery as an effect on the relevant environment. The exact conclusion would still depend on the statute's purpose and factual evidence.

IRAC Answer 2 - Developer near threatened-species habitat

Issue

Whether State planning approval alone authorises clearing, or whether additional State or Commonwealth environmental approvals/referrals are required.

Rule

The lawyer must identify all applicable statutory layers. At Commonwealth level, EPBC Act ss 67 and 67A address controlled actions and the prohibition on taking

⁷⁵ *Acts Interpretation Act 1954 (Qld) ss 14A-14B.*

them without the required approval or recognised legal basis; s 68 provides for referral by the person proposing the action. Relevant protected matters include listed threatened species and ecological communities. State legislation and planning controls must also be checked.⁷⁷

Application

Potential habitat for a nationally listed species creates a federal-risk question but does not automatically prove that federal approval is required. The lawyer should obtain current species and habitat information, define the proposed action, commission ecological assessment if necessary, assess likely impacts, review the current referral guidance and determine whether a referral is required or prudent. State clearing, vegetation, water, heritage and other approvals must be mapped separately.

Conclusion

The developer should not be advised that State planning approval alone is sufficient. Further due diligence is required before clearing. The advice should identify approval risk, required studies, referral options, program implications and the risk of enforcement if works commence prematurely.

IRAC Answer 3 - Professional advice and unlawful clearing

Issue

What statutory exposure and professional responsibility may arise where a consultant accepted responsibility for identifying approvals but advised incorrectly and protected habitat was cleared?

Rule

First identify the actual clearing offence or approval requirement and the parties to whom liability can attach under the current legislation. Investigate any executive-officer provisions, accessory liability, due-diligence obligations and sentencing/remedial powers. The Taylors Beach / Orogen prosecution is a useful historical illustration of the consequences that can follow when a professional adviser accepts a compliance role and gets the approval position wrong.⁷⁸

Application

The retainer wording is important because it may show the scope of responsibility accepted. The lawyer should review the advice, factual assumptions, site information provided, whether the consultant undertook appropriate searches, whether further expert work was required, who made the clearing decision and

⁷⁶ *The Crown v Murphy* [1990] HCA 42; (1990) 64 ALJR 593.

⁷⁷ *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ss 67-69.

⁷⁸ *Gordon Plath of the Department of Environment and Climate Change v Fish; Gordon Plath of the Department of Environment and Climate Change v Orogen Pty Ltd* [2010] NSWLEC 144.

whether the director was personally involved. Separate civil/professional-negligence exposure may also require investigation.

Conclusion

The adviser should not assume liability follows automatically from a wrong answer, but the facts create serious regulatory and professional-risk issues. Immediate steps should include preserving documents, stopping further potentially unlawful works, identifying remediation or regulator-notification obligations and obtaining advice on response strategy.

CHAPTER 1 FINAL REVISION

From Student to Lawyer - One-Page Attack Sheet

IF YOU REMEMBER ONLY ONE METHOD

WHAT HAPPENED? -> WHERE? -> WHO IS ACTING? -> WHICH GOVERNMENT LEVEL? -> WHICH ACT? -> WHICH SECTION? -> WHAT DOES THE ACT DEFINE? -> WHAT IS THE PURPOSE? -> WHAT DOES THE INTERPRETATION ACT REQUIRE? -> WHAT DO THE CASES SAY? -> WHAT EVIDENCE IS NEEDED? -> WHAT IS THE CONSEQUENCE? -> WHAT SHOULD THE CLIENT DO NEXT?

Core concepts

- **Anthropocentric:** nature protected because of human benefit.
- **Biocentric:** living things have inherent value.
- **Ecocentric:** ecosystems and nature have intrinsic value.
- **Instrumental value:** value through usefulness.
- **Intrinsic value:** value in its own right.
- **Purposive interpretation:** prefer the construction that best achieves the Act's purpose, subject to the text and statutory framework.

Authorities to know from Chapter 1

- *Sierra Club v Morton*, 405 US 727 (1972) - standing and the rights-of-nature debate.⁷⁹

⁷⁹. *Sierra Club v Morton*, 405 US 727 (1972).

- [*The Crown v Murphy* \[1990\] HCA 42; \(1990\) 64 ALJR 593](#)⁸⁰ - contextual meaning of “environment”.
- Environmental Protection Act 1994 (Qld) s 8 - current Queensland definition of environment.⁸¹
- Acts Interpretation Act 1954 (Qld) ss 14A-14B - purpose and extrinsic material.⁸²
- Acts Interpretation Act 1901 (Cth) ss 15AA-15AB - Commonwealth purposive interpretation and extrinsic material.⁸³
- EPBC Act ss 67-69 - controlled-action/referral framework introduced here and developed later in the book.⁸⁴

PROFESSIONAL ENDPOINT

The chapter is complete when you can do more than define the concepts. You should be able to explain why they matter, find the controlling law, apply the law to facts, identify the evidence still needed, and tell a real client what to do next.

^{80.} [*The Crown v Murphy* \[1990\] HCA 42; \(1990\) 64 ALJR 593.](#)

^{81.} [Environmental Protection Act 1994 \(Qld\) s 8.](#)

^{82.} [Acts Interpretation Act 1954 \(Qld\) ss 14A-14B.](#)

^{83.} [Acts Interpretation Act 1901 \(Cth\) ss 15AA-15AB.](#)

^{84.} [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\) ss 67-69.](#)

CHAPTER 1 SOURCES

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The consolidated bibliography at the end of the completed book will build cumulatively from these chapter sources and will be arranged in AGLC4 categories.

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B Cases

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Sierra Club v Morton, 405 US 727 (1972)

The Crown v Murphy [1990] HCA 42; (1990) 64 ALJR 593

C Legislation

Acts Interpretation Act 1901 (Cth)

Acts Interpretation Act 1954 (Qld)

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Environmental Protection Act 1994 (Qld)

National Environmental Protection Agency Act 2025 (Cth)

CHAPTER 1 RESEARCH

Resources

[Gerry Bates, *Environmental Law in Australia* \(11th ed, 2023\) - prescribed text](#)

[Federal Register of Legislation](#) - current Commonwealth Acts, regulations, compilations, commencement and historical versions.

[Queensland Legislation](#) - current Queensland Acts, subordinate legislation and authorised historical versions.

[AustLII](#) - free Australian judgments and legislation.

[National Environmental Protection Agency](#) - current national regulatory information, EPBC assessment and approvals material.

[The Crown v Murphy \[1990\] HCA 42](#)

[Sierra Club v Morton, 405 US 727 \(1972\)](#)

[Christopher D Stone, 'Should Trees Have Standing? - Toward Legal Rights for Natural Objects'](#)

[Gordon Plath ... v Fish; ... v Orogen Pty Ltd \[2010\] NSWLEC 144](#)

RESEARCH RULE

Use hyperlinks as navigation aids, not as substitutes for authority. The legal proposition in the text must be supported by its AGLC4 footnote and the current source should be checked before reliance.

End of Chapter 1.