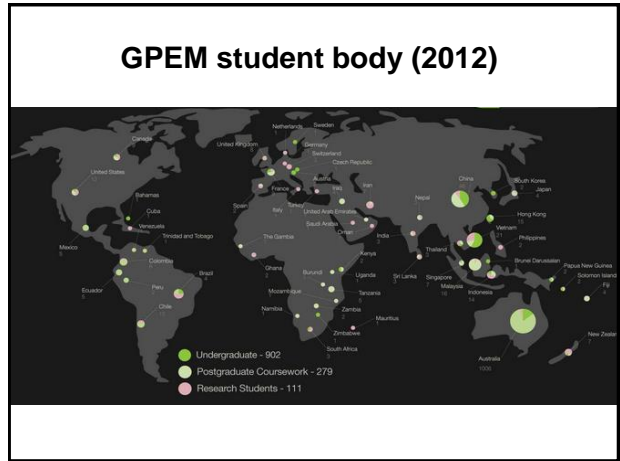
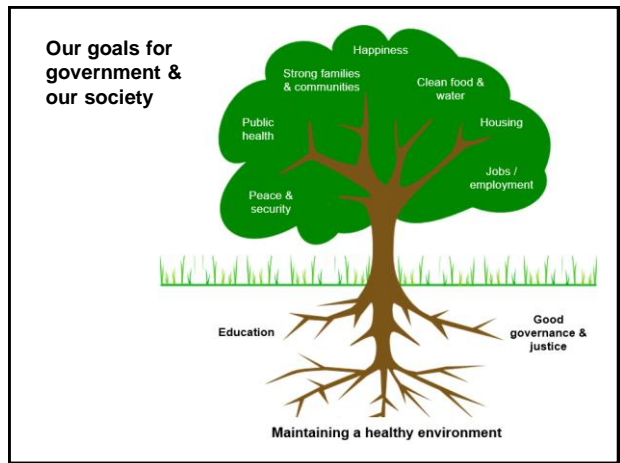


Slides for lecture on an introduction to government in Australia for international students - 9/3/2016



- ### Lecture outline:
1. Our goals for government & our society
 2. Four levels of government:
 - **International:** The United Nations and other international institutions
 - **National:** Commonwealth / Federal / Australian Government
 - **State:** Queensland Government
 - **Local:** 73 local governments in Queensland





UN Headquarters, New York
(Photographer unknown)
<http://www.un.org/>



UN Security Council at UN HQ, New York
(Photographer unknown)



UN Secretary General
Ban Ki-moon
(Photographer unknown)

There is no international (unilateral) “government”

International law is founded on the sovereignty of individual nations.

The United Nations (UN) does not have a general power to impose obligations on countries without their consent (with the limited exception of maintaining international peace).

The UN cannot impose international environmental obligations on individual countries such as Australia, China or the United States of America without their consent.

Australia has become a party to many international agreements (normally called “conventions” or “treaties”) but these generally have limited enforcement and oversight powers, **leaving implementation largely at the discretion of the Australian Government**

Example of international agreement: The World Heritage Convention



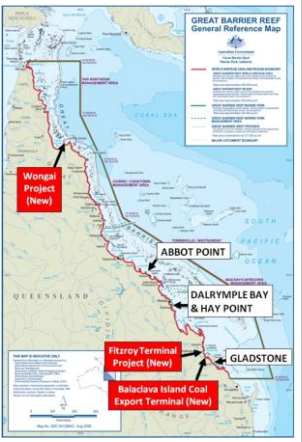
<http://whc.unesco.org/>

Under the World Heritage Convention the identification, protection, conservation, presentation and transmission to future generations of World Heritage properties within Australia is largely at the discretion of the Australian Government.

Only countries that are parties to the Convention are liable to comply with its obligations. Normal people are not a party to the Convention and cannot be held liable for breaching it.

While international bodies have limited roles, they can be important.

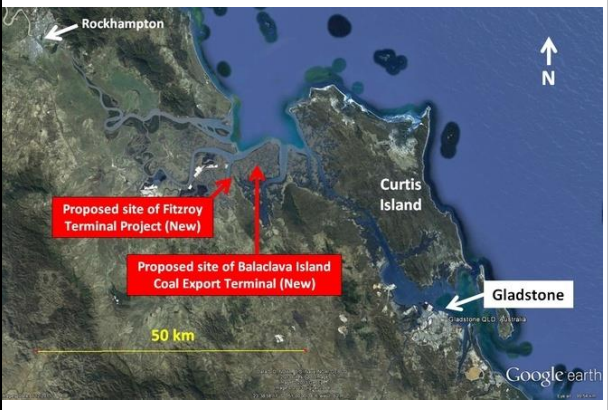
The World Heritage Committee recently reviewed whether to enter the Great Barrier Reef on the List of World Heritage in Danger because of rapid coastal development.



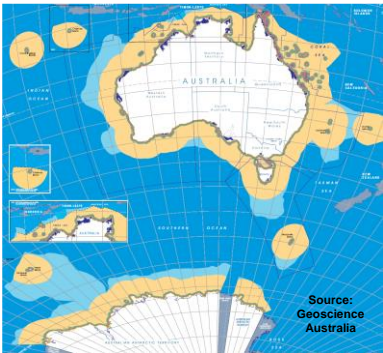
In mid-2012 the World Heritage Committee requested that Australia:

... not permit any new port development or associated infrastructure outside of the existing and long-established major port areas within or adjoining the property ...”

Location of new proposed coal terminals north of Gladstone

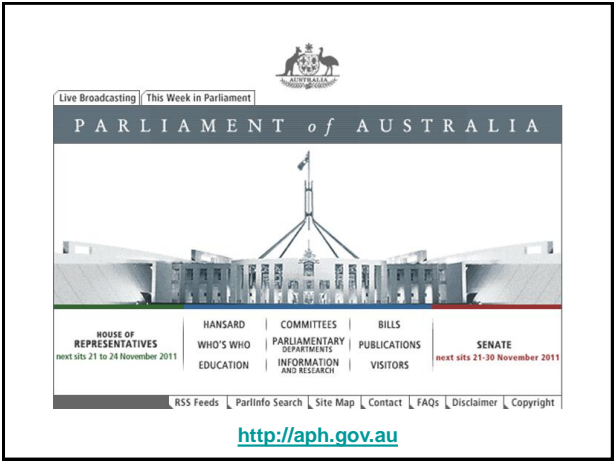
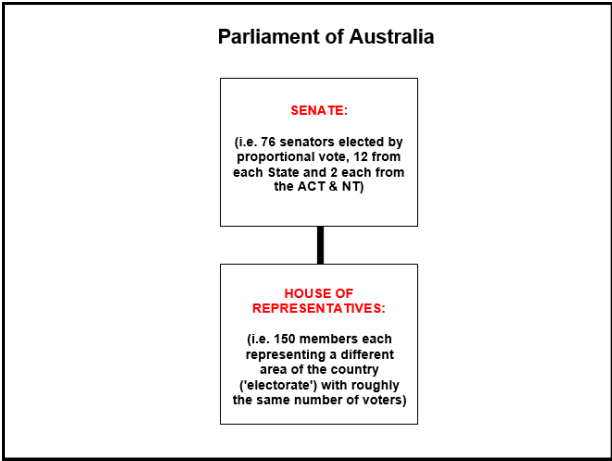
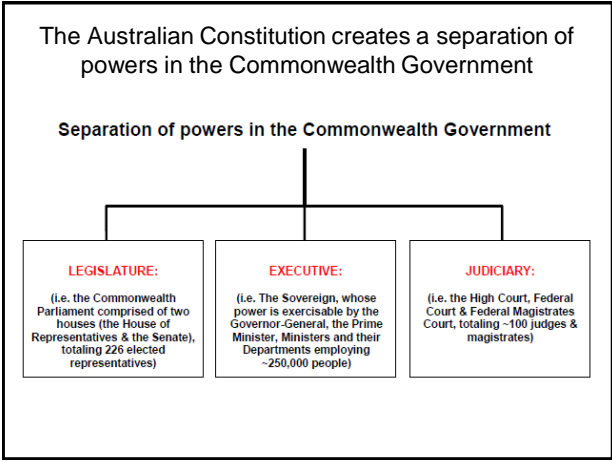
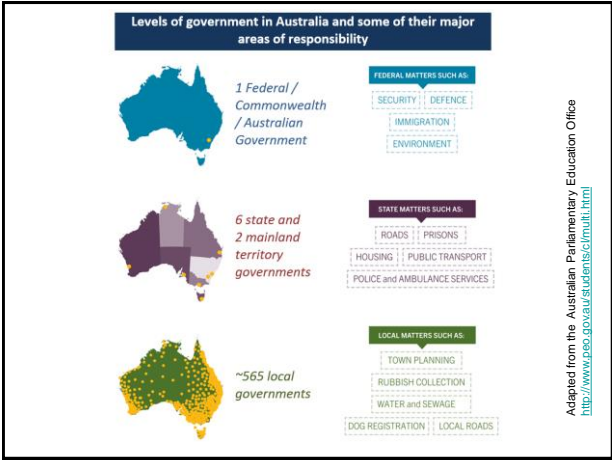


One more important point: under international law, the Commonwealth of Australia has sovereignty (the exclusive right to govern & control) the Australian mainland and offshore islands and sovereign rights to control an enormous maritime area.
(Nb. Australia's sovereignty in Antarctica is disputed by many countries)



Government in Australia





Main Australian political parties



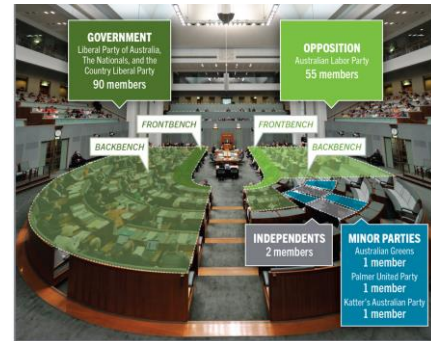
THE NATIONALS

Nb. Liberal + National Parties form "the Coalition"

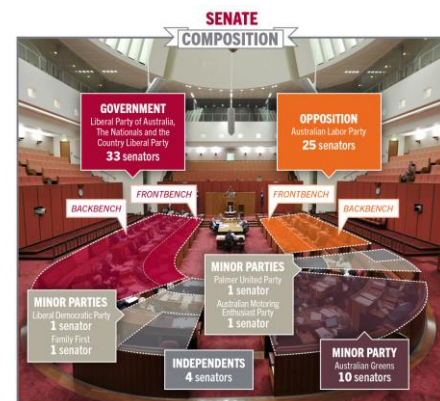
Images from <http://www.peo.gov.au/multimedia/library/pad.html>

House of Representatives composition in 2013-present

Source: Parliamentary Education Office

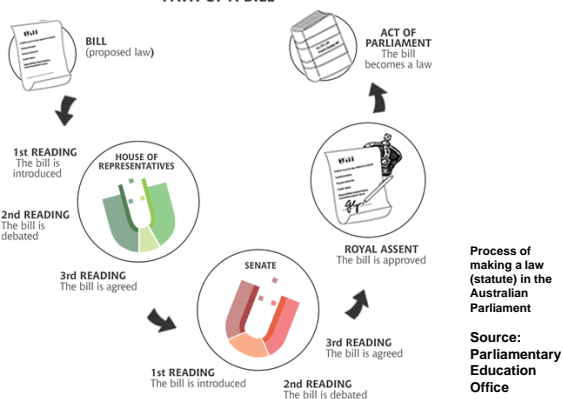


Source: Parliamentary Education Office

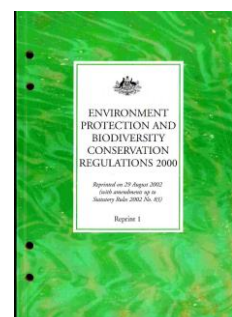
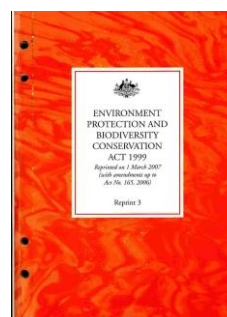


Source: Parliamentary Education Office (2013-present)

PATH OF A BILL



Cover of the EPBC Act & regulations: examples of existing statute & regulations made under it.

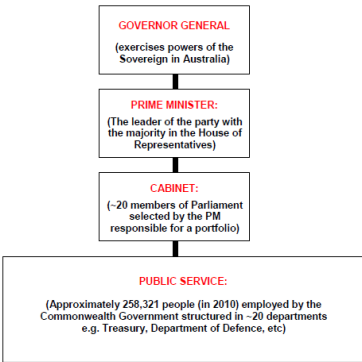


Where to find Commonwealth laws



<http://www.comlaw.gov.au>

Executive Government of Australia



Departments principally relevant for environmental matters (as at 2016)

1. Attorney-General's Department (AG)
2. Department of Agriculture and Water Resources
3. Department of Communications and the Arts
4. Department of Defence
5. Department of Education and Training
6. Department of Employment
7. Department of Finance
8. Department of Foreign Affairs and Trade (DFAT)
9. Department of Health
10. Department of Human Services (DHS)
11. Department of Immigration and Border Protection
12. Department of Industry, Innovation and Science
13. Department of Infrastructure and Regional Development
14. Department of Social Services
15. Department of the Environment
16. Department of the Prime Minister and Cabinet (PMC)
17. Department of Veterans' Affairs (DVA)
18. Treasury

Source: <http://australia.gov.au/information/australian-government-directorates/government-departments>

The Federal Judiciary

High Court of Australia Canberra



Photograph: High Court of Australia

What can the Commonwealth Government regulate and what is its relationship with the States and Territories?

51 Legislative powers of the Parliament [see Notes 10 and 11]

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

- (i) trade and commerce with other countries, and among the States;
- (ii) taxation; but so as not to discriminate between States or parts of States;
- (ix) quarantine;
- (x) fisheries in Australian waters beyond territorial limits;
- (xx) foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth;
- (xxix) external affairs;



The High Court of Australia has held in a series of cases since the Tasmanian Dams Case in 1983 that under s51(xxix) of the Commonwealth Government has power to enact legislation that is reasonably capable of being considered appropriate and adapted to fulfil Australia's international legal obligations.

Due to the width of Australia's international legal obligations, this gives the Commonwealth Government a wide power to make laws to protect the environment.

Article 8

In-situ conservation

Each Contracting Party shall, as far as possible and as appropriate:

- Example of Australia's international legal obligations: the Biodiversity Convention
- (a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity; ...
 - (c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas with a view to ensuring their conservation and sustainable use;
 - (d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;
 - (e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas; ...
 - (k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations; ...
- See <http://www.cbd.int/>

What happens if a Commonwealth law and a State law conflict?

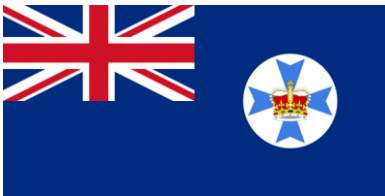
Nb. True conflict is rare. Normally Commonwealth and State laws operate side by side.

A hierarchy of laws is established under the Commonwealth Constitution

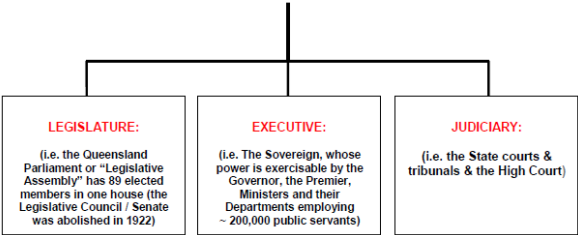
109 Inconsistency of laws

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Queensland Government



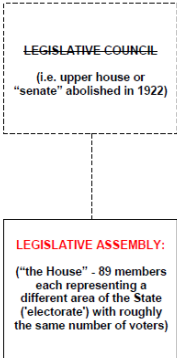
Separation of powers in the Queensland Government



Queensland's Parliament House Source: Rebecca C's Flickr photostream



Queensland Parliament



Where do I find Queensland legislation?



<http://www.legislation.qld.gov.au>

Queensland Government Departments

(as at 2016 under the Palaszczuk-Labor Government)

1. Department of Premier and Cabinet
2. Department of Aboriginal and Torres Strait Islander Partnerships
3. Department of Agriculture and Fisheries
4. Department of Communities, Child Safety and Disability Service
5. Department of Education and Training
6. Department of Energy and Water Supply
7. Department of Environment and Heritage Protection
8. Department of Health
9. Department of Housing and Public Works
10. Department of Infrastructure, Local Government and Planning
11. Department of Justice and Attorney-General
12. Department of National Parks, Sport and Racing
13. Department of Natural Resources and Mines
14. Department of Police, Fire and Emergency Services
15. Department of Science, Information Technology and Innovation
16. Department of State Development
17. Department of Transport and Main Roads
18. Department of Treasury
19. Tourism, Major Events, Small Business and the Commonwealth Games

Local Government

73 local government areas in Queensland

Nb. Local governments may be called "council" "regional council" "city" or "shire".

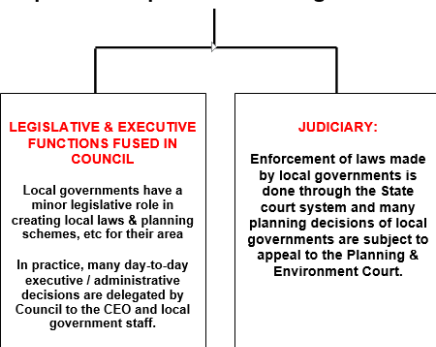
Source: Queensland Government (2011)

Of <http://www.qldcouncils.com.au/web/guest/find-your-council> and

<http://www.dlgs.qld.gov.au/local-government-directory>



Separation of powers for local governments



Example of local government: Brisbane City Council




See <http://www.brisbane.qld.gov.au>

Discussion:

For many issues, including environmental protection, government in Australia is not a neatly layered cake. It is more like **scrambled eggs**.

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
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The Franko-Cordier 4000 Rivers National Park was the scene of environmental disputes between the Transpolar and federal governments.

Australia's scrambled egg of government: who has the environmental power?

December 5, 2010 3:05pm AEST




Author

Chris McGrath
General Lecturer at The University of Queensland

Disclosure statement

Chris McGrath does not work for, consult to, own shares in or receive funding from any company or organization that would benefit from this article, and has no relevant affiliations.

Partners



THE UNIVERSITY OF QUEENSLAND
STUDENT SOCIETY

The University of Queensland provides funding as a member of The Conversation Hub.

See: The Conversation website: <https://theconversation.com/australias-scrambled-egg-of-government-who-has-the-environmental-power-9582>

Six key ingredients to understanding why there are no neat roles in government for environmental protection in Australia

1. State governments were historically responsible for environmental management, and they still often resent the Commonwealth intruding into these matters. State, territory and local governments still handle the vast bulk of day-to-day decisions and administration of land and water management.
2. The Commonwealth Government has wide powers to make laws to protect the environment.
3. The purpose and actual effect of a Commonwealth law are irrelevant for determining its validity.
4. No issues that are exclusively reserved for the State and Territory governments.
5. Commonwealth laws override State, Territory and local government laws to the extent of inconsistency.
6. The Commonwealth has a wide discretion on how it distributes funding and the conditions that are attached to funding. Because the Commonwealth collects most of the taxation in Australia, its power to fund different programs gives it a huge influence over programs that are implemented at state and territory level such as health and education.

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Cooperation and occasional battles

While battles between the Commonwealth and state governments often flare up and make the headlines, generally they cooperate.

We see this if we look at things like environmental protection and taxation.

Battles like the Tasmanian Dam dispute in 1983 and recent fights between the Commonwealth and Queensland governments over the mining tax and state royalties are interspersed by long periods of cooperation.

This reality reflects the idea of "cooperative federalism". Federal - state relationships do not always need to be smooth and it is unrealistic to expect that they will.

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