

# School of Law

University of New England

2015 Newsletter

Edition 1



## Welcome

Our new PhD student Vivek Nemane from India is now on board. He will be located in the AgLaw Centre and his PhD is part funded by the Invasive Animals CRC. Vivek will be researching legal and institutional aspects of the introduction of new pest control techniques in peri-urban areas (the sites will be peri-urban Brisbane and Sydney).

Vivek obtained his undergraduate degree in Law from ILS Law College, Pune, India; his LLM from Dept. of Law, University of Pune, India and his specialized LLM from University

of Arkansas School of Law, USA. In addition, Vivek has successfully completed European Commission's EM Fellowship program in Public Policy constitutive of specialized degrees in International Development (from International Institute of Social Studies, The Hague, Netherlands) and International Public Policy (from Central European University, Budapest, Hungary).

He has significant experience working with international organizations, law offices and academic as well as research institutions in India and abroad.



*Vivek Nemane*

## Promotions

Congratulations and well done to the following three staff who were promoted in January.

Promotion to Lecturer in Law (Level B) – Mr Kip Werren

Promotion to Associate Professor (Level D) – Associate Professor Amanda Kennedy

Promotion to Professor (Level E) - Professor Brian Simpson

## The Australian Centre for Agriculture and Law (AgLaw)

The AgLaw Centre hosted a Native Vegetation Forum on Thursday 12th February 2015 at UNE. This forum was jointly hosted with Scot MacDonald MLC (a former student within our Sustainability Masters), with the active encouragement of the local staff of the NSW EPA. This event was intended to encourage constructive local discussion about the very contentious issues of native vegetation legislation. Approximately 60 people attended, representing a variety of (often strongly opposing) perspectives. The meeting was

addressed by Dr Neil Byron (the chairman of the recent review of biodiversity protection laws), and by the NSW Minister, Rob Stokes. As anticipated, the discussion was robust and there were many different perspectives. However, because of the good faith and willingness of the people who participated, it was possible to direct the meeting towards seeking ways of dealing with the issues that also supported local "social capital".

A number of people who attended subsequently indicated that whilst

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they expect that the meeting would be challenging, they was surprised to find that there was “space” for people to have a constructive discussion. The meeting determined that a set of proposals should go forward to the Minister, which will be refined in consultation with those people who attended the meeting, intended to shape the way in which the implementation of native vegetation protection laws might be approached which will be less confrontational within the local community.

It was generally agreed that this approach, where UNE’s School of Law has been very innovative and engaged with the interests of our local community, is both constructive and creative.

Professor Paul Martin was a key speaker at the ‘Frontiers in Environmental Law Colloquium’, 10th and 11th February 2015, at the University of Tasmania, Hobart. He presented on the topic of “non-doctrinal” research methods in environmental law. This is an area in which the Australian Centre for Agriculture and Law is increasingly recognised both in Australia and internationally as a pioneering contributor. Also in Tasmania at the same time was the meeting of the ‘Australian Panel of Environmental on Environmental Law’, of which Professor Martin is a member. That panel has been commissioned by the major environment organisations in Australia, to lead the development of a new national legislative framework for protection of the environment.

Both of these events are linked to an international project being led by Professor Martin for the IUCN World Commission on Environmental Law and the IUCN Environmental Law Centre at Bonn, to develop and apply a method for empirical evaluation of the effectiveness of environmental law. This project involves the use of the method developed by Professor Martin which has been applied to environmental law issues in Australia, China, Brazil, New Zealand and South Africa.



*Participants in the Invasive Animals CRC Program ‘Facilitating Effective Community Action’ theme meeting, February 2015*

The Australian Centre for Agriculture and Law has developed and is using a wide variety of innovative approaches to the empirical aspects of environmental law scholarship. This is reflected in the methods being used both by Postgraduate students, and by the academic staff of the centre.

Professor Paul Martin leads the ‘Facilitating Effective Community Action’ program for the Invasive Animals Cooperative Research Centre. The program conducted a Theme Review and Team meetings in Sydney on 26th and 27th February 2015. The meeting involved collaborators including state governors agencies from Queensland, NSW, Victoria, Tasmania and Western Australia, who are all involved in collaborative projects with Paul and his team. These projects address community engagement practice, improving the effectiveness of communications and legal and institutional reform. There is also a cohort of doctoral students addressing a wide variety of issues concerned with enabling and supporting citizens to do what is needed to better control the adverse effects of wild dogs, pigs, rabbits and other invasive species.

Among the publications which are emerging from the research are analyses of the ways in which existing legal and institutional arrangements limit the ability of some members of the community to take necessary action, but also how the failure to actively implement existing regulation may often impede the work of those who are

trying to do the right thing. This work continues the programme of research which has been going on for some years within the centre, focused upon problems of rural sustainability and social justice associated with invasive plants and animals.

Participants in the program included representatives of government agencies in NSW, Queensland, Victoria, Tasmania and Western Australia; national invasive species coordinators and research program leaders; doctoral candidates, postdoctoral researchers and industry and natural resource management collaborators.

Professor Ted Alter from Penn State University visited the School of Law between 21st February and 28th March 2015. Ted has been working with the Centre on a number of projects for some years, notably within the “next-generation landscape governance” Australian Research Council project, and the invasive animals program. Ted and his team at PSU bring a specialist expertise in issues of community engagement and “engaged scholarship”. He has worked closely with the numbers of team members, including doctoral students, to help us to integrate issues of citizen empowerment and public participation with our research on legal and institutional aspects of rural governance.



**The Australian Centre  
for Agriculture and Law**

## Kirby Seminars

All audio files of Kirby seminars may be listened to via:

[www.une.edu.au/about-une/academic-schools/school-of-law/kirby-seminars](http://www.une.edu.au/about-une/academic-schools/school-of-law/kirby-seminars)

### Professor Barbara Cosens

Professor Cosens delivered her Kirby seminar on Friday 20th February 2015, 'Resilience of Social-Ecological Systems



in the Anthropocene: The Adaptive Water Governance Project and the Columbia River Basin'.

Barbara is a Professor with the University of Idaho College of Law and the Waters of the West Graduate Program which includes options for concurrent JD/MS and JD/PhD degrees. She teaches Water Law, Water Policy, Law Science and the Environment, and leads a team taught graduate course in Interdisciplinary Methods in Water Resources. Barbara coordinates the Natural Resources and Environmental Law Program at UI. Her research interests include the integration of law and science in education, water governance, and dispute resolution; adaptive water governance and resilience; and the recognition and settlement of Native American water rights. She is a collaborator with the Utton Center and Earth Data Analysis Center at University of New Mexico and the American Indian Law Center on development of the Native American Water Right Settlement Electronic Repository and has served as a negotiator and mediator of Native American Water Right settlements.

Legal systems, while establishing boundaries and fostering economic and social goals, are nevertheless inherently adaptable and responsive to new challenges. In the context of climate change, law provides a pragmatic perspective on how we might alter water governance to better prepare for accelerated rates of change and surprise as the water-related impacts of climate change unfold. The Adaptive Water

Governance Project (AWG Project) is a synthesis project with the National Socio-Environmental Synthesis Center under funding from the (US) National Science Foundation. The AWG Project explores the role of law in achieving water governance that is capable of facilitating management, adaptation and transformation in the face of climate change. It builds on the work of resilience scholars, proponents of adaptive governance and climate scientists, by asking four questions concerning the role of law in adaptive governance.

- What is the role of law in setting boundaries by identifying approaching thresholds or tipping points in are source system?
- What is the role of law in creating either a disturbance or window of opportunity in which adaptive forms of governance may emerge?
- What is the role of law in presenting barriers to adaptive forms of governance?
- What is the role of law in actively facilitating adaptive forms of governance?

This talk focussed on the application of the project to the Columbia River Basin shared by the United States and Canada. The project is taking place in the face of a key window of opportunity for change in the basin brought about by expiration of certain provisions of a treaty between the United States and Canada, and a review process underway in both countries. The intersection of this window with climate change places the basin in a unique position to consider more adaptive governance mechanisms in its framework for transboundary management for the next century.

### Professor Dr Makoto Ibusuki

Professor Ibusuki delivered his Kirby seminar on Friday 20th March 2015 'Winny Case: A tragic story about remarkable P2P software and criminal responsibility of software programmer'.



Dr Makoto Ibusuki is Professor of Criminal Procedure Law with a particular interest in the area of investigative interviewing, criminal discovery, judicial stay of proceeding and miscarriage of justice. He is also one of the leading legal informatics and cyber law experts in Japan. Dr Ibusuki has many publications including academic books and journal articles. He has also translated several books, and recently finalised the translation supervisory work for "Criminal Procedure, Volume 1" by Professor Joshua Dressler on the Understanding Series from LexisNexis Co. (US) (at May 2014) for publication. He was Associate Professor (1991-1999) and then Professor (1999-2002) of Kagoshima University, and was Professor of Ritsumeikan Law School before joining the Faculty of Law in Seijo University in 2009. He was also visiting scholar of John Marshall Law School, Chicago (1997-1998), University of New South Wales (2002), University of Sydney (2013) and University of Hawaii (2014), and visiting fellow at University of New South Wales (2007-2008).

### Professor Ian Freckelton QC

Professor Freckelton delivered his Kirby seminar on Monday 13th April 2015 'Fitness to Stand Trial: From Ezra Pound to David Eastman'.



Ian Freckelton is a Queen's Counsel at the Victorian Bar. He has a national practice and is currently prosecuting the disciplinary case against Dr Patel in Queensland, arguing the constitutionality of the national health practitioner regulatory scheme in South Australia, and appearing for the New South Wales Police in the Lindt Cafe Inquest in Sydney. He is also a Professorial Fellow in Law and Psychiatry at the University of Melbourne, an Adjunct Professor of Law and Forensic Medicine at Monash University, and an Adjunct Professor of Law at La Trobe University. He is a Commissioner at the Victorian Law



Reform Commission running the reference on Medicinal Cannabis. Ian is a member of Victoria's Coronial Council and Mental Health Tribunal, the Editor of the Journal of Law and Medicine and the Editor-in-Chief of Psychiatry, Psychology and Law. He is an elected Fellow of the Australian Academy of Law, the Academy of Social Sciences Australia and the Australasian College of Legal Medicine. He is also the author and editor of more than 40 books and over 500 peer reviewed articles. His next book on Scholarly Misconduct

and the Law will be published by Oxford University Press later this year.

The Kirby Seminar scrutinised the dilemmas in evaluating capacity to participate in the criminal justice process via findings of fitness to stand trial. It will scrutinise the famous case of Ezra Pound in the aftermath of the Second World War, the decisions of the Extraordinary Chambers of the Courts of Cambodia in relation to Ieng Thirith, the case of Josep Nahak in East Timor, and the

saga involving David Eastman over the past two decades in Australia. In so doing it will reflect on the disabilities which can detract in a meaningful sense from the capacity of persons to engage as accused persons and the challenges for the legal system in making decisions which impact profoundly upon those who go to trial and those who may never go to trial.

## Dr Elodie Le Gal

Early April Elodie (Post Doctoral Fellow with the AgLaw Centre) attended a workshop at UNSW detailing the potential research opportunities that could be developed as part of the Australia-Germany Joint Research Cooperation Scheme, which is a joint initiative of Universities Australia and the German Academic Exchange Service (DAAD), Germany's national agency for the support of international academic co-operation. This scheme is specifically directed to early career researchers.

For further information, please visit [www.universitiesaustralia.edu.au/global-engagement/international-collaboration/international-agreements-and-activities/Australia--Germany-Joint-Research-Cooperation-Scheme#.VS3ZUROUfuU](http://www.universitiesaustralia.edu.au/global-engagement/international-collaboration/international-agreements-and-activities/Australia--Germany-Joint-Research-Cooperation-Scheme#.VS3ZUROUfuU)

Kath Dougall is the Joint Research Cooperation Scheme contact officer at UNE.

## Professor Brian Simpson

During March and early April, Professor Brian Simpson travelled to the United Kingdom for various purposes. Brian is involved in re-writing a High Court of Australia judgment for the 'Children's Rights Judgment Project' based at the University of Liverpool. This is a major two year project that involves the re-writing of court judgments by children's rights experts from

around the world from a children's rights perspective. The collection will be published in a book in 2017. Brian attended one of a series of workshops that are being held as part of this project at Liverpool in March. The workshops bring together the various participants to discuss the different approaches to re-writing such judgments.

Later in March Brian presented a lecture at Maynooth University Law School (near Dublin) titled 'Monsters in the bedroom? Re-thinking social media and young people'. Faculty and Law students attended the lecture.

Then from the 31st March to the 2nd April Brian attended the Socio-Legal Studies Association Annual Conference at Warwick University. Brian co-convenes the Law and Cyberspace stream at this conference and he also presented a paper titled 'Algorithms or Advocacy: Does the Legal Profession Have a Future in a Digital World?' as part of this stream.

Brian is also an Assistant Editor for the new online journal 'International Journal of Gender, Sexuality and Law' which will be launching soon.

## Associate Professor Greg Carne

Associate Professor Greg Carne participated in the Constitutional Law Teachers Workshop at UNSW Law Faculty at Kensington on 12 February 2015, and then attended the UNSW Gilbert and Tobin Centre Public Law

Constitutional Law Conference and the George Winterton Memorial Lecture in Constitutional Law by Justice Stephen Gageler in Sydney on 12th and 13th February 2015.

## Mr Paul Sattler

On Friday 6th February Paul conducted a radio interview on ABC New England North West on the subject of the sentencing of Australian Wallaby captain David Pocock as a result of the Maules Creek mine protest. The session discussed 'plea bargaining', the role of sentencing in the criminal law and what a section 10, good behaviour bond all meant.

Paul conducts semi regular radio spots on ABC New England North West on topical issues in criminal law.

On Friday 20th March Paul gave a presentation to students from Calrossy and Farrar Agricultural School, Tamworth, on why they should come to UNE and study law. The presentation was organised through MAPA and included a whole tour of the University.



## Visit to Chiang Mai University Thailand



In February 2015 Associate Professor Lillian Corbin and Professor Mark Perry visited the Faculty of Law at Chiang Mai University (CMU) in Chiang Mai, Thailand. CMU is a prestigious public university in Northern Thailand with over 35,000 students. During the week they presented classes to (around 200) second and third year students on Legal Ethics and Patents & Copyright respectively. They also presented discussions entitled "The Role of the Lawyer: Ethics Developments; Jurisdictional Differences; and Difficult Duties" and "The Commodification of Science: do patents promote or defeat basic research?" to a select audience that included local professionals and court administrators, and representatives of the USPTO, the CMU Technology Transfer office and former EPO personnel. There were several meetings with the Vice-Dean Kanya Hirunwattanapong and with other CMU faculty members, and later in the week they were joined by Professor Stuckey to continue to firm up relationships between the two schools for exchanges and LLM double degrees.





## International Conference

### 'Constitutionalism, the Rule of Law and Democratic Governance – Challenges and Prospects in Comparative Perspectives'

This Conference was co-hosted by the School of Law, University of New England (UNE), Australia, the Faculty of Law, Thammasat University, and the German-Southeast Asian Center of Excellence for Public Policy and Good Governance (CPG), Faculty of Law, Thammasat University. It was held on the 1st and 2nd April 2015 at the Faculty of Law, Thammasat University, 2 Prachan Road, Bangkok 10200, Thailand.

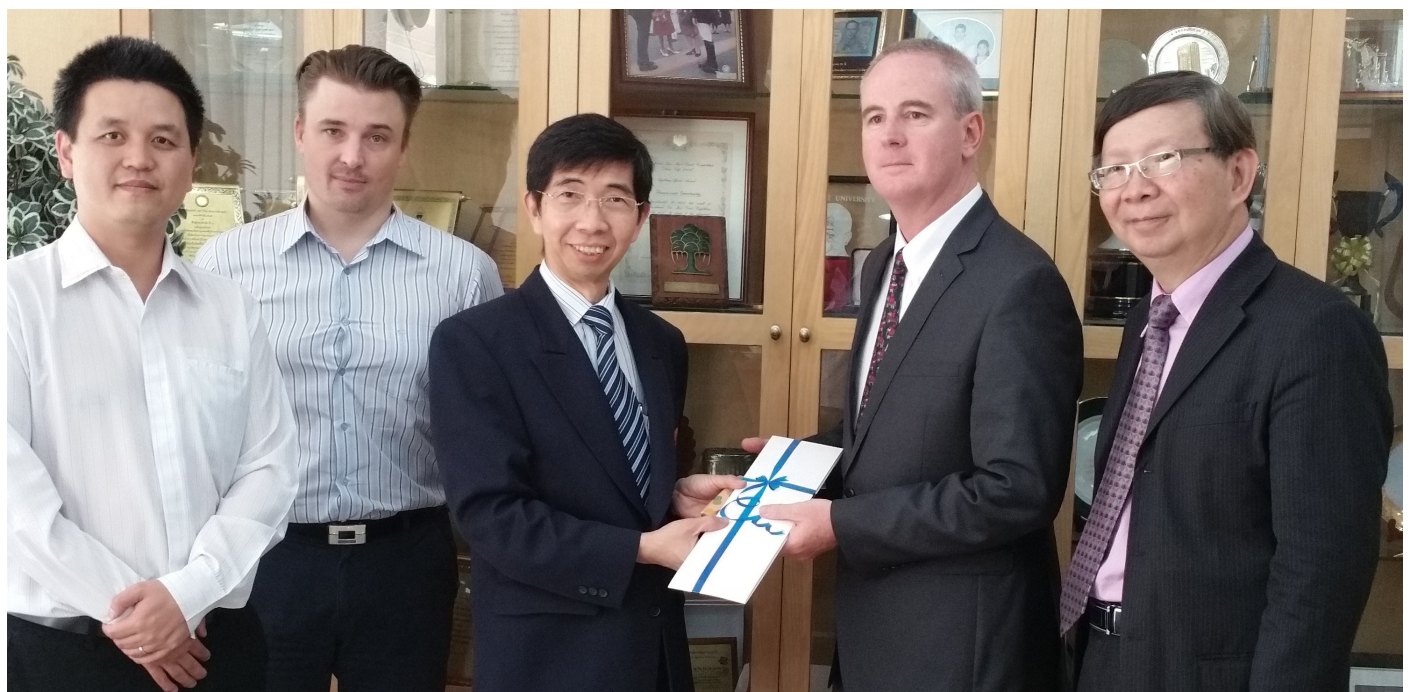
At this conference Dr Same Varayudej presented a paper 'Challenges and Prospects for Constitutionalism, the Rule of Law and Democracy in Comparative Perspectives'. Same was joined by Dr Jonathon Liljeblad who flew to Bangkok from Myanmar to join the conference. Jonathan presented a paper, 'Challenges and Prospects in the Constitutional Development in Myanmar'.



*Dr Same Varayudej presents his paper 'Challenges and Prospects for Constitutionalism, the Rule of Law and Democracy in Comparative Perspectives'*



*School of Law, Sukhothai Thammathirat Open University (STOU).*



*Dr Duc Quang Ly, Project Manager of the German Southeast Asian Centre of Excellence for Public Policy and Good Governance (CPG); Professor Henning Graser, Director of CPG; Professor Narong Jaihar, Dean of the Faculty of Law, Thammasat University; Professor Michael Stuckey, Head of the School of Law, UNE; and Dr Same Varayudej, Lecture & International Coordinator, School of Law, UNE*



## Professor Michael Stuckey

February Professor Michael Stuckey visited Thailand, Sri Lanka and Indonesia, meeting with Universities and other personnel with the aim of attracting International students and to further relations with International University Law School Institutions.

During this visit Professor Stuckey met up with colleague Dr Same Varayudej at the International Conference on 'Constitutionalism, the Rule of Law and Democratic Governance – Challenges and Prospects in Comparative Perspectives' held in Bangkok. Professor Stuckey also met up with colleagues Professor Mark Perry and Associate Professor Lillian Corbin at Chiang Mai University where they were presenting classes to second and third year students in the Faculty of Law.

He attended the Council of Australian Law Deans (CALD) meeting 19th and 20th March 2015 at the University of Technology, Sydney. The Law Deans of Australia discussed many items including the Priestly 11, OLT Network Grant project: National Peer Review Network, Coalition of Australian Law Administrators (COALA), CALD Constitution and CALD Standards, Teaching of Statutory Interpretation, Legal Uniform Professional Law Consultation and Student Evaluation, Review & Reporting.

## Mr Paul Akon

Paul has been visiting the USA where he spent some time exploring Harvard and New York City.

The following is how Paul perceived the Harvard Law School Library -

"The HLS Library is huge; there are four levels; each level is 150 metres in length; then there are large rooms at each end, one is a museum, the other is for large groups working with a lecturer, I imagine. There are very high ceilings and lots of Doric columns; the HLS Library alone is much bigger than the whole of Dixon Library at UNE.

It was truly inspirational and humbling - as a teaching fellow - working in the 'Quiet Zone' on the fourth level. There was a scholarly silence. You can almost hear a pin drop. There is unlimited access to an abundance of PCs. The IT is refreshingly instantaneous, no matter what the command. It is almost unbelievable the speed at which it operates - literally in the blink of an eye.

Printing is a 'dime' a page. The printers are enormous. I do not think I have ever seen such big printers, even in the NSW Police or civil service. Periodically, one would see a library assistant moving around dragging a trolley with paper to replenish the printers.



Each generous oak wooden desk had an individualised fluorescent tube and switch. Each library shelf had its own lighting.

There are also wooden desks at which you can stand and work".





## Dr Jonathan Liljeblad



Jonathan is currently working from Myanmar. Updates of his activities are listed below.

- Research on the Myanmar National Human Rights Commission (MNHRC). Jonathan has been collaborating with the Raoul Wallenberg Institute on the ongoing development of the MNHRC in the wake of its 2014 restructuring under parliamentary statute.
- Research on the World Heritage listing process for Myanmar's ancient ruins. Jonathan has been to Pyay to meet with the members

of the Pyu Ancient Cities World Heritage committee. Jonathan notes that it is fascinating to learn about the practical challenges of implementing international law on cultural heritage and it seems Myanmar has the best-preserved remaining examples of ancient Southeast Asian civilizations, and archaeologists see the current time as a golden moment to take preserve them before the onslaught of tourism, development, and globalization erase them from history.

- Research on sacred sites and indigenous cultural heritage management--Jonathan his tribe's management of several sacred sites in Shan State under Myanmar and international law. These places are becoming accessible to tourists and there have been anthropologists already in the region but so far no one has raised the issues that Jonathan is researching the issues of managing these places in an era of international World Heritage site listings, transnational tourism, foreign monitoring, and development pressure.

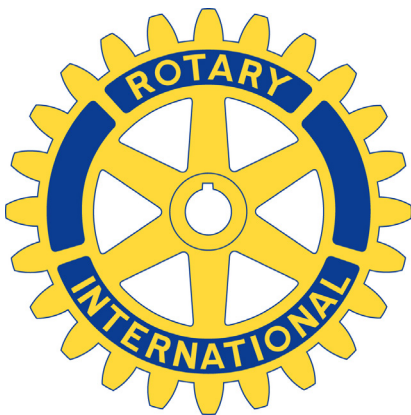
- Research on the legal profession. Jonathan is following the development of the newly-formed independent bar association for Myanmar: the Independent Lawyer's Association of Myanmar.
- Research on reform of university curricula. Jonathan has been studying the ongoing changes in curricula of the International Relations, Politics, and Law programs in Myanmar as they transition from a socialist-era research and teaching system to more modern global standards of critical analysis and active learning. He is collaborating with Bridges Across Borders Southeast Asia Continuing Legal Education (BABSEACLE) to understand how all 18 of Myanmar's law schools are working to meet Common Law standards for legal education.
- Research on university reform. Jonathan has been given permission to study how Yangon University has been navigating its transition into a research and teaching institution meeting global standards for university education.



## Rotary Meeting

Professors Mark Lunney and Mark Perry and Associate Professor Lillian Corbin were guest speakers at a Rotary meeting held at the Armidale Ex-Services Club. The School of Law representatives provided those present with an overview of the Law School; some insights into their individual research activities; and also spoke of some of their recent community projects.

Feedback from the event indicated that the representatives from the School of Law were very well received.



## Student Testimonial

**The following testimonial was received from a Bachelor of Arts/ Bachelor of Laws student:**

"I am currently an Arts student gaining the required GPA to transfer to law. In 2014, I commenced study at UNE and have completed LS100, LS101, and LS161 in trimester 1, 2, and 3 respectively. I was advised that the best way to provide some general feedback was through yourself as the Head of School. Firstly I would like to pass on my thanks to all three lecturers for their outstanding support that was provided to myself as an external student. This support goes far beyond what I have experience at another university. I attended the intensive school for LS101 and I was very pleasantly surprised at the extreme value of the two days, I

would go as far as to so that, in the future that I will do everything in my power to attend any intensive offerings. I hope that these opportunities will be available in future units. I realise that your staff must give up a lot of their valuable time to provide this to students and that minimum numbers are required to make them viable; however I hope that they continue in the future whenever possible. I hope that as many units as possible will include an intensive period as nothing is better than the face to face opportunity with the staff and other dedicated students. The time sacrificed out of hours and over holidays by your staff in order to provide online tutorials and timely feedback is commendable. The general availability to answer, possible stupid questions, and engage external students makes me feel like 'I AM'

a student at UNE. (I have not felt this before as an external student) I believe that the dedication your staffs have shown to the external students has been pivotal in me gaining the best results I have ever achieved whilst undertaking tertiary study, I know with this support I will only be able to improve. Finally I wish to thank your staff for their dedication and support; I would never have expected this level of dedication based on previous experience. I look forward, and am invigorated going into 2015".



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## Publications

### Journal articles

**Michelle Edgely**, 'Why do Mental Health Courts Work? A Confluence of Treatment, Support and Adroit Judicial Supervision' (2014) 37 *International Journal of Law & Psychiatry*, pp. 572-580.

**Mark Perry**, 'Food and sustainability: the regulation of biotechnology', 2014, *Australian Environment Review*, v. 29 (7), pp. 196-199.

**Ottavio Quirico**, 'The International Responsibility of the European Union: a Basic Interpretive Pattern' (2013-14) 1 *Hungarian Yearbook of International Law and European Law*, pp. 63-74.

**Lisa King and Bronwen Leroy** (2014), 'Developing an online learning community in Industrial Law' in B. Hegarty, J. McDonald, & S. K. Loke (Eds.), *Rhetoric and Reality: Critical perspectives on educational technology*. Proceedings Asclite Dunedin 2014, pp.654 - 657.

**Jacqueline Williams, Amanda Kennedy and Donna Craig** (2014), 'Lost in Translation: threatened species law in Australia' in *Global Environmental Law at a Crossroads* Edward Elgar Cheltenham.

**Marty Branagan, Jacqueline Williams and Amanda Kennedy** (2014), Editorial: *Mining in a Sustainable World International Journal of Rural Law and Policy*. Issue 1, 2014.

**Jacqueline Williams and Paul Martin** (2014), 'Developing Law and Governance Strategies for Peri-urban Sustainability' in *Urbanisation of Peri-urban Regions: Challenges and Opportunities for Security of Water, Food and Liveability of Future Cities* Springer Science Netherlands.

**Paul Martin and Jacqueline Williams** (2014), Science Hubris and insufficient legal safeguards *Environmental and Planning Law Journal* Vol 31/ 4.

### Book Reviews

**Mark Perry**, 'Free and Open Source Software, Policy, Law and Practice' by Noam Shemtov (ed.) and Ian Walden (ed.), (Oxford University Press, 2014), ISBN: 9780199680498 in *European Intellectual Property Review* (Issue 1, 2014, pp. 61-62).

### Book chapters

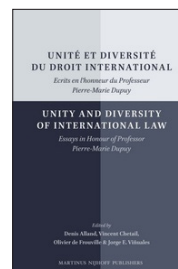
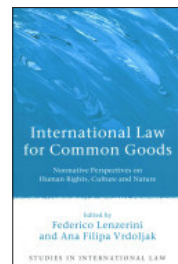
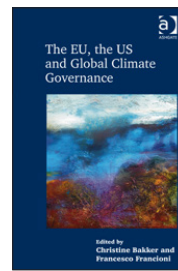
**Ottavio Quirico**, 'Primary Sovereign Rights or Secondary Environmental Duties?' Critical International Law Issues Raised by the Extraterritorial Application of the EU Emission Trading System in the Aviation Sector', in Christine Bakker and Francesco Francioni (eds), *The EU, the US and Global Climate Governance* (Ashgate, 2014) pp. 143-60.

**Ottavio Quirico**, 'A Human Rights-Based Approach to Climate Change? Insights from the Regulation of Intangible Cultural Heritage', in Federico Lenzerini and Ana Filipa Vrdoljak (eds), *International Law for Common Goods: Normative Perspectives on Human Rights, Culture and Nature* (Hart, 2014) pp. 381-94.

**Ottavio Quirico**, 'Droit "flou", droit "doux" ou droit "mou"? Brèves réflexions sur la "texture" des mesures conservatoires et des constatations dans les procédures individuelles devant le Comité des droits de l'homme', in Denis Alland, Vincent Chetail, Olivier de Frouville and Jorge E Viñuales (eds), *Unité et diversité du droit international – Unity and Diversity of International Law, Essays in Honour of Professor Pierre-Marie Dupuy* (Brill, 2014) pp. 875-887.

### Further Conference and Seminar presentation and/ or attendances

**Tristan Taylor** (2015), 'Lessons of Violence: Mass-violence and Roman Republican Imperialism' *Classical Association Conference*, 11-13 April, Bristol, UK.



**Jacqueline Williams and Paul Martin** (2014), The Next Generation Rural Landscape Governance for Australia National Landcare Conference, Melbourne 17-19 September.

**Paula Baron and Lillian Corbin** (2014), The academic role: Service, compliance, freedom. In A. Kwan, E. Wong, T. Kwong, P. Lau & A. Goody (Eds.), *Research and Development in Higher Education: Higher Education in a Globalized World*, 37 (pp 10-19). Hong Kong, 7-10 July.

### Submissions to Commonwealth Parliamentary Committee Inquiries:

**Greg Carne**, Submission to Parliamentary Joint Committee on Intelligence and Security inquiry into the *Counter-Terrorism Legislation Amendment Bill (No 1) 2014* (November 2014)(Submission 4)

[www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Intelligence\\_and\\_Security/Amendment\\_Bill/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/Amendment_Bill/Submissions) (Submissions 4)

**Greg Carne**, Submission to Parliamentary Joint Committee on Intelligence and Security Inquiry into the *National Security Legislation Amendment Bill (No 1) 2014* (August 2014). (Submission 5)

[www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Intelligence\\_and\\_Security/National\\_Security\\_Amendment\\_Bill\\_2014/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/National_Security_Amendment_Bill_2014/Submissions) (Submission 5)

**Greg Carne**, Submission to Parliamentary Joint Committee on Intelligence and Security Inquiry into the *Counter Terrorism Legislation Amendment (Foreign Fighters) bill 2014* (October 2014) (Submission 27 )

[www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Intelligence\\_and\\_Security/Counter-Terrorism\\_Legislation\\_Amendment\\_Foreign\\_Fighters\\_Bill\\_2014/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/Counter-Terrorism_Legislation_Amendment_Foreign_Fighters_Bill_2014/Submissions) (Submission 27)



## Top Students 2014

Students who topped each unit were awarded certificates in both the internal and externally cohort.

### Trimester 1, 2014

LLM600	Research Methodology & Theory Mrs Melissa Wallis
LLM618	Law of the Sea Ms Amy McMullen
LLM628	Resource Rules Mr Robert Yen
LLM628	Resource Rules Mr John Hong
LLM629	Strategy and Sustainability Miss Harriet Bawden
LLM629	Strategy and Sustainability Mr David Farrell
LLM629	Strategy and Sustainability Mr Stuart Martin
LS100	Introduction to Legal Systems & Methods Ms Eden Beveridge
LS100	Introduction to Legal Systems & Methods Ms Nicole Arnold
LS100	Introduction to Legal Systems & Methods Mr Daniel Baxter
LS161	Criminal Law Ms Sophie Waples
LS161	Criminal Law Mr Alexander Gow
LS212	Evidence and Proof Mr Matthew Houlahan
LS212	Evidence and Proof Ms Peta Lisle
LS212	Evidence and Proof Ms Alexandra Hayter
LS220	Constitutional Law Mr Matthew Houlahan
LS220	Constitutional Law Mr John Michael Mort
LS220	Constitutional Law Mr Simon Obee
LS231	Law of Torts I Ms Bethany Richmond
LS231	Law of Torts I Miss Camille Erskine
LS240	Equity and Trusts Miss Brittany Edman
LS240	Equity and Trusts Miss Kelly Hatch
LS281	Property Law I Mr Jamie Watts
LS281	Property Law I Dr Bradly Billings
LS281	Property Law I Mr Brian Powles

LS334	Banking and Finance Law Mrs Natasha Messing
LS336	Local Government Law Mr Benjamin Ward
LS336	Local Government Law Mr Robert Dickerson
LS336	Local Government Law Miss Ryan Flippence
LS342	Medico-Legal Issues Miss Ashleigh Schiemer
LS342	Medico-Legal Issues Dr Alexandra Whittaker
LS351	Corporation Law Miss Chanel Moss
LS351	Corporation Law Miss Sarah Morton
LS355	Jurisprudence Miss Gillian Capel
LS355	Jurisprudence Mr Benjamin Scott
LS358	Natural Resources Law Ms Melinda Kelly
LS358	Natural Resources Law Mr Michael Klimek
LS361	Public International Law Ms Ruby MacKenzie-Harris
LS361	Public International Law Miss Samara Hand
LS361	Public International Law Ms Lisa Jones
LS371	Law of Contract I Ms Molly Zarb
LS371	Law of Contract I Mrs Meredith Ziegler
LS397	Special Studies in Law (B) Introduction to Legal History Dr Benjamin Edwards
LS480	Advanced Research, Writing & Advocacy Miss Virginia Yow
LS480	Advanced Research, Writing & Advocacy Mr Bradley Santer
LSSU251	Introduction to Business Law Ms Kimberly Britts
LSSU251	Introduction to Business Law Ms Alicia McIntyre
LSSU391	Principles of Corporation Law Mr Philip Smith
LSSU391	Principles of Corporation Law Miss Sally Clark

### Trimester 2, 2014

LLM610	Health and Medical Law Mrs Elizabeth Bylinska
LLM625	International Trade Law Mrs Melissa Wallis
LLM627	Resource Management Risk & Responsibility Mrs Merran Ramsay

LLM630 Catchments, Contracts & Conflicts  
Mr Stuart Martin

LLM630 Catchments, Contracts & Conflicts  
Miss Nicole Payne

LS101 Law in Context  
Miss Sophie Eigeland

LS101 Law in Context  
Mr Steven Gillingham

LS200 Administrative Law  
Ms Shannon Whitney

LS200 Administrative Law  
Mr Sheridan Cousland

LS232 Law of Torts II  
Ms Mikaela Johnson

LS232 Law of Torts II  
Miss Cassandra Keogh

LS232 Law of Torts II  
Ms Bethany Richmond

LS232 Law of Torts II  
Mr David Harvey

LS282 Property Law II  
Ms Taylor Dand

LS282 Property Law II  
Ms Jennifer Parker

LS312 Criminal and Civil Procedure  
Mr James Browning

LS312 Criminal and Civil Procedure  
Mr Gregory Ryan

LS320 Professional Conduct  
Ms Kate Simpson

LS320 Professional Conduct  
Ms Amanda Gaw

LS331 Intellectual Property Law  
Ms Ruby MacKenzie-Harris

LS331 Intellectual Property Law  
Miss Laura Rosenberg

LS331 Intellectual Property Law  
Mr Barry Bashour

LS335 Human Rights  
Ms Angela Doolan

LS335 Human Rights  
Miss Kate Sprinkle

LS357 Alternative Dispute Resolution  
Miss Miriam Hicks

LS357 Alternative Dispute Resolution  
Mr Simon Dodson

LS370 Family Law  
Ms Shannon Whitney

LS370 Family Law  
Mr Paul Eather

LS372 Law of Contract II  
Ms Molly Zarb

LS372 Law of Contract II  
Ms Jennifer Parker

LS379 Commercial Law  
Miss Gillian Capel

LS459 Advanced Torts  
Miss Brittany Edman

LS459 Advanced Torts  
Ms Peta Lisle

LS459 Advanced Torts  
Mr Thomas Maling

LS459 Advanced Torts  
Mr Dean Murphy

LS480 Advanced Research, Writing & Advocacy  
Miss Gillian Capel

LS480 Advanced Research, Writing & Advocacy  
Mr Benjamin Carpentier

LS480 Advanced Research, Writing & Advocacy  
Mr Jamie Watts

LSSU251 Introduction to Business Law  
Ms Amy Zimmerman

LSSU392 Principles of Taxation Law  
Miss Melissa Carey

LSSU392 Principles of Taxation Law  
Mr Michael Hanlan

### Trimester 3 2014 ending February 2015

LLM600 Research Methodology and Theory  
Miss Lisa Westaway

LLM612 Issues in Public International Law  
Mr Michael Stone

LLM617 Civil Procedure  
Mr Kyal Hill

LLM638 Biotechnology Law  
Ms Monicka Igras

LS100 Introduction to Legal Systems & Methods  
Mrs Sarah Bell

LS101 Law in Context  
Mr David Zrobek

LS161 Criminal Law  
Ms Kayla Ryan

LS200 Administrative Law  
Ms Amanda Bosworth

LS212 Evidence and Proof  
Mr Paul Eather

LS332 Industrial Law  
Mr Mitchell Donaldson

LS332 Industrial Law  
Mr John-Michael Mort

LS335 Human Rights  
Miss Jessica Dixon

LS335 Human Rights  
Ms Alexandra Hayter

LS364 Indigenous Australians and Law  
Mr Murray Greenway

LS377 Information Technology Law  
Mr Daniel Dallas

LS389 Legal Practice in Rural & Regional Communities  
Mrs Vittoria Smith

LS396 Special Studies in Law (A) Roman Law  
Ms Josephine Barbaro

## March Graduation

### Graduation speech Vote of Thanks: given by Mr Benjamin Scott

It is a real privilege and an honour to be asked to do this, and firstly I would like to thank the Chancellor, Vice-Chancellor, council members, distinguished guests, academic staff, fellow graduates, family and friends, and especially those who have travelled a long way to be here today.

My experience of study at UNE was different from the guest speaker, but I think no less enriching. It's actually only my second time on this beautiful campus. I have completed my degree sitting in front of a computer screen 500 kilometres away, in an inner western suburb of the inner west of Sydney. But I do feel very connected to the people here, the staff and students, because I think we have all worked very hard and we have overcome a lot of challenges to get to where we are today.

In the law they talk about a "balancing exercise". I think that working full-time and studying is certainly a balancing exercise, and I think the trick is to skip lightly over centuries of legal history and still retain enough to leave a mark on the exam paper. You have to juggle commitments to family, to work, and to study. Sometimes these commitments are clustered in ways that we would not choose, and we have to solve these problems in the limited time that's available to us.

There are realisations along the way. Some of them are terrifying, like the realisation that you have two weeks until an essay is due and of that two weeks, you actually only have six hours of time available to complete it. There's the realisation that you don't actually have enough time between now and the exam even to memorise the phrase 'a clog on the equity of redemption', let alone understand what it means. And there are some nice realisations; like the realisation that if the High Court itself isn't exactly sure what a point of constitutional law means, then maybe your lecturers aren't



*Debra Kelliher and Graduate, Benjamin Scott*

sure either, and you should just hit 'submit', and maybe you will get some marks for showing the courage of your convictions.

I would like to thank and pay tribute to the academic staff of the School. I first studied as an undergraduate fifteen years ago, and it's been spoken about here today that there are many demands on academics today. They are different, and I think they are greater than when I first studied. Now, in addition to being a lecturer, the staff are called upon to be an IT administrator, a social media guru, a subject matter expert, a counsellor, and sometimes a therapist – and the job doesn't stop on evenings and weekends. So I would like to thank them for their patience and their insight and their good humour, even when I was the fifteenth person asking the same question on the Moodle site – because we wouldn't be here without you.

I'll also just mention families, because many of us have family members here today, and they are proud of us, and we are very grateful to them for their support. I have a family that

has been very supportive of me. I have a wonderful mother who has always led by example in our family. I have a stepfather whose wise advice it was to study law at UNE. I have a strong patient wife and two beautiful children. They have spent large parts of the last five years staring at my back as I stare at a computer screen, so I'm very grateful to them. As I said, many of us have families who have enabled us to do what we've done, so we thank them today.

And to my fellow graduates, like me, you've spent years getting to this point, and you've probably learnt some things along the way. You've learned some critical thinking skills; you've improved your problem-solving abilities; you might have learned some skills in managing your time and managing your emotions. Some of you might even have learned what a clog on the equity of redemption is, and if you have, please tell me afterwards. Now you have your degree. So I would hope that you can take some time to replenish your energies, and then may you do something wonderful with it.



## Dr Philip Kowalick

Dr Philip Kowalick graduated with a PhD, *A critical examination of witness protection in Australia*, on the 27th March 2015. Dr Kowalick writes for our newsletter.

I am thrilled to have been appointed an Adjunct Senior Lecturer with the UNE School of Law in January 2015 and look forward to as many opportunities as I can to visit the school and engage with colleagues and students.

I have been the industry expert on the Bachelor of Criminology Course Advisory Committee for the past two years and taught the Criminology unit Policing and Social Control in the Third Trimester 2014.

I am currently a member of the Robb College Senior Common Room. I was lucky to have had outstanding supervision throughout my PhD from Professor Eilis Magner, who sadly passed away after my thesis was submitted but before the examiners reports were in and the thesis was finalised. Eilis gave me great supervision through the research and writing: she had also been my academic mentor for about 18 years – throughout all my tertiary studies.

Since completing the PhD I have given conference papers at the British Society of Criminology Conference in Liverpool, *A Critical Examination of Witness Protection in Australia*; and the ANZSOC Conference in Sydney, *Witness Protection: The Proper Limits of Secrecy* in 2014. I have been accepted to present another paper at the BSC Conference in Plymouth in



*Dr Philip Kowalick and Professor Annabelle Duncan Vice Chancellor*

2015, *How can we better protect at risk witnesses in the criminal justice system?*

I am currently also working on abstracts for the ANZSOC Conference in Adelaide in November 2015 and for the Current Issues in Criminal Justice Journal, November edition, both dealing with the impacts of social media on witness protection.

I retired from a long career in law enforcement (35 years) with the Australian Federal Police (AFP) in January 2014 to concentrate on finishing the PhD and to pursue new career opportunities. I am currently establishing a consultancy, 'Sagire Consulting', focussing on law enforcement, intelligence and security and risk and have been working with a dynamic organisational design company 'ThinkPlace' since November 2014.

I was engaged by ThinkPlace in November 2014 to work with the Department of Immigration and Border Protection to undertake the strategic organisational design of the new Australian Border Force: a new Commonwealth agency to come into effect on 1 July 2015 replacing the Australian Customs and Border Protection Service and incorporating parts of the Department of Immigration.

In March 2015 the Australian Strategic Policy Institute commissioned me to produce a Special Report as part of the ASPI Strategic Policing and Law Enforcement Program.

The project, tentatively titled *Optimising Strategic Criminal Intelligence: making the most of our assets for strategic criminal intelligence collection and dissemination*, will develop an appreciation of Australia's approach to international aspects of gathering and disseminating strategic crime intelligence. It will identify strengths and weaknesses in the current arrangements and develop options for law enforcement and national security agencies to advance the fight against serious and organised crime into the future. ASPI proposes to publish the special report in July this year.

I completed a LL.M in 2004 *Defence disclosure in criminal matters*, my LL.B with Honours *The Right to Silence*, and Graduate Diploma in Legal Practice in 2000. I was admitted as a legal practitioner in the Supreme Court of the ACT and as a Barrister in the High Court and Federal Court also in 2000.



## 27 March 2015 Graduation list of law graduates

### Doctor of Philosophy

Philip Neil Kowalick

*'A Critical Examination of Witness Protection in Australia'*

Principal Supervisor: Professor Eilis Magner

### Master of Laws

Mitchell John Carrigan

David Denis Farrell

### Master of Sustainability

Harriet Thea Bawden

Graduate Diploma in Legal Studies

Megan Melissa Cooper

Deborah Raylene West

Andrew James Williams

### Graduate Certificate in Sustainability

Stuart Ramdeem Martin

Nicole Maree Payne

Emily Anne Rowe

### Juris Doctor

Elizabeth Bylinska

Andrea Ruth Croy

Matthew Leigh Davidson

Mitchell John Hayes

Yu Li Lee

Denise Coralie McCowan

Kartika Nandini Pillay

Laura Jane Sierakowski

### Bachelor of Sustainability

Donna Margaret Dickson

Caroline Ruth Holo

### Bachelor of Arts and Bachelor of Laws with Honours

Buddy Bell, Second Class Honours Division 1

Murray James Newman, Second Class Honours Division 2

### Bachelor of Criminology and Bachelor of Laws with Honours

Koreen Partridge, First Class Honours

Megan Kate Raines, Second Class Honours Division 1 and New England Award

### Bachelor of Economics and Bachelor of Laws with Honours

Jesse Bylinski, Second Class Honours Division 1

### Bachelor of Laws with Honours

Alicia Rachel McDowall, First Class Honours

Aaron Robert Ball, Second Class Honours Division 1

### Bachelor of Arts and Bachelor of Laws

Kieran Abbotts

Adam Todd Bickley

Charlotte Emily Egan

Ryan Flippence

Renee Latoya Harris

Luke Francis Jones

Ruby Erin Mackenzie-Harris

Jesse David Power

George Edward Proudfoot

Alexandra Marie-Ruth Starke

### Bachelor of Business and Bachelor of Laws

Madeleine Anne Hunt

Ashley Olsen

Rebecca Roberts

Benjamin John Ward and New England Award

Hannah Maree Wills

Katelyn Tara Wilson

### Bachelor of Criminology and Bachelor of Laws

Jessica Marguerite Vaki Davis

Miriam Annabel Lane Hicks

Patrick Larkin

Jessica Skye McPherson

Shannon Whitney

### Bachelor of Economics and Bachelor of Laws

Lachlan Stirling Patterson

### Bachelor of Environmental Science and Bachelor of Laws

Hamish Jack Cato

Amy Gullifer

Rowan David Murphy

Kate Emma Tierney

Elisabeth Imogen Webster

### Bachelor of Laws

Chioma Uche Amaechi

Jade Catherine Austin

Megan Louise Baldwin

Catherine Anne McGowan Ball

Kiah Brooke Bowen

Mark Robert Bradbury

Simon Bromley

Courtney Jane Bruem

Jade Ashley Cooper

Mahsa Curci

Nikki Stuart Dickings

John Lesley Drake and New England Award

Laura Anne Dunn

Lelyan Elias

Taya Nicole Fabijanec

Jacqueline Louise Fitzgerald

John William Fuller

Robyn Ann Furner

Ashor Georges

Scott Green

Peter John Gunn

Dominic Michael Holles

Patricia Teresa James

Ellen Clare Jones

June Elizabeth Langfield

Elisha Louise Lansdowne

John Jeremy Lewis

Simon Richard Lewis Lipert

Elise Sarah Marriott

Kelly Marie Matheson

Cara Jane Maynard

Loren Marie Moore

Duncan Thomas Moran

Tracey Dianne Mulry

Edward Philip Neaves

Peter Thomas O'Sullivan

Michelle Parker

Mary-Jean Parmenter

Dayle Carolyn Partridge

Alexis Pryor

Catherine Anne Kelly Quayle

Jenna Rich

Dyllon Jayde Safi-Westendorf

Benjamin Fraser Scott

Claire Shumack

Hevi Sidiq

Abigail Lucilla Balingit Valenzuela

Bonny Jean Wallace

Dwight David Willis

Molly Martin Willoughby

Matthew James Woodford

Juri Yoshida



## 27 March 2015 Graduation





## The Bob Hughes Scholarship Fund

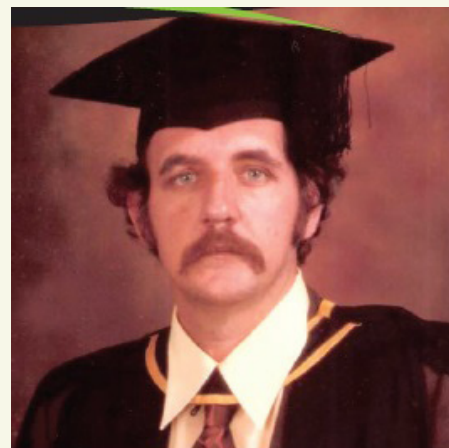
The Bob Hughes Scholarship is established in recognition of the remarkable contribution of the late Bob Hughes to the establishment, in 1993, and subsequent development of the School of Law at the University of New England. He brought the School into existence and played a dominant role in implementing its program. Twenty years later the School now stands as a monument to his enterprise, determination, perceptiveness and courage.

Bob was born in Macksville in 1950. Articled to a solicitor in Macksville, he studied law under the SAB system. A few years after admission as a solicitor he had his own practice and owned offices in Macksville and Nambucca Heads. At the same time he studied for a BA as an external student of the University of New England, with majors in Politics and Philosophy. In 1983, having been awarded a Commonwealth

Scholarship, he sold his practice and became a full-time student. He graduated with first class honours and a University Medal in 1984. He then commenced a PhD in political philosophy

and was awarded the degree in 1990. His thesis was greatly admired by his examiners and demonstrated his broad and multi-disciplinary scholarship, his fascination with the philosophical underpinnings of law and social science, and his formidable powers of intellect and analysis.

Bob developed a vision to create a law school at UNE and developed a plan for its establishment and operation. With help from a Visiting Professor, Emil Hayek, Bob designed the LLB degree, wrote most of the units, planned the gradual employment of staff as courses expanded, and established the Law Library. Bob envisioned that someday all law courses at UNE would be studied electronically by students who would have access to a



virtual law library. Bob died in 2008. It is now a matter of history that the Law School at UNE has been a great success.

The Bob Hughes Scholarship Fund is established to assist law students from disadvantaged backgrounds in completing their studies in Law at the University of New England.

**For further information, please contact:**

**Office of Advancement, UNE**

**Phone 02 6773 2870**

**Email: [foundation@une.edu.au](mailto:foundation@une.edu.au)**

## School of Law Facebook Page



The School of Law has recently set up a Facebook page in order to share events and other School of Law information. Please 'like' the School of Law's Facebook page so that we can keep you updated about what is happening at the School of Law.

You will be able to access the page by either:

typing the name of the page '**UNE School of Law**' in the Search box in the upper-right corner of any page on Facebook. From the results page, you will then need to select the 'Page's filter' in the left-side menu to show only 'Page' results. Click the 'Like' button next to the Page name and posts from 'UNE School of Law' will begin appearing on your news feed.

## Calling Law alumni!

**The School of Law is very keen to publish accomplishments of alumni in the newsletter and is inviting submissions.**

**Please forward content to Lyn Gollan:**

**[lgollan2@une.edu.au](mailto:lgollan2@une.edu.au)**

**<http://alumni.une.edu.au/>**

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