

THE NEXUS BETWEEN ENVIRONMENTAL LAW EDUCATION AND BETTER GOVERNMENT IN NEW ZEALAND AND A SPECIAL PLACE FOR DISTANCE IN ITS DELIVERY

*RICHARD M FISHER**

ABSTRACT

This paper explores the current status of environmental law education in New Zealand, in both Bachelor of Laws (LLB) and non-LLB contexts. Its relevance to better government is shown by the strong connections between the *Local Government Act 2002* (NZ) and the *Resource Management Act 1991* (NZ) in government decision-making, and by the need for education that is engendered by the extent of current environmental reform, and associated work streams in this area. Environmental law education offered by universities and polytechnics in New Zealand, was studied and compared to current areas of practice. Furthermore, enrolment information for two 'Level Six' environmental law courses taught by distance at the Open Polytechnic in New Zealand, was analysed in order to reveal other study pathways. The results confirm the existence of historically close connections between environmental education, and distance education as a delivery platform. They also suggest new opportunities for greater involvement of environmental law in digital education futures.

I INTRODUCTION

The theme of the Australasian Law Teachers' Association 2016 annual conference was the law's role in advancing better government, sustainable economies, and vibrant communities. The purpose of this paper is to respond to that theme in two ways. The first way is to identify the importance of environmental legal education and literacy to address one of New Zealand's most compelling current problems: coalescing the critical mass of government, business, and community leadership, to ensure a sustainable environmental future. The second way is to advocate a special role for distance education as a delivery platform.

A The Breadth of Environmental Law

The United Nations Environment Programme defines environmental law as 'a body of law, which is a system of complex and interlocking statutes, common law, treaties, conventions, regulations and policies which seek to protect the natural environment which may be affected, impacted or endangered by human activities.'¹ It is a rapidly evolving, broadly defined area of law, involving interdisciplinary subject areas, guided by a number of key principles. An indication of its breadth can be determined by the expansive definition in New Zealand of 'environment', which includes²:

- (a) Ecosystems and their constituent parts, including people and communities;
- (b) All natural and physical resources;
- (c) Amenity values; and
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by these matters.

* Senior Lecturer, School of Science, Engineering & Technology, Open Polytechnic, Lower Hutt 5040, New Zealand.

1 United Nations Environment Programme, *Environmental law and multilateral agreements* (2013). <http://www.unep.org/training/programmes/Instructor%20Version/Part_2/Activities/Interest_Groups/Decision-Making/Core/Environmental_Law_Definitions_rev2.pdf>.

2 *Resource Management Act 1991* (NZ) s 2.

B The Importance of Environmental Law in Advancing Better Government

The relevance of environmental law to New Zealand's central and local governments, can be confirmed in a number of ways as discussed below.

1 The Environmental Provisions In Key Guiding Statutes.

The notion of better government cannot occur without a consideration of the laws governing how government decisions are made. Two of the most important statutes in this regard are the *Local Government Act 2002* (NZ) ('LGA'), and the *Resource Management Act 1991* (NZ) ('RMA'). The RMA's purpose is 'to promote the sustainable management of natural and physical resources'³. It has extensive connections to the LGA, particularly the LGA's Part 6 legislation consultation provisions which provide a check on the broad power of general competence to make decisions. A sound understanding of both the LGA and RMA processes is essential for both environmental and governmental practitioners. This can be confirmed by the types of research that underpins environmental law education at tertiary levels.⁴

2 Current Work Streams and Legislative Reform.

It is indicative that four of seven of the New Zealand Local Government's (LGNZ) policy priority areas, are wholly or partially related to environmental issues.⁵ The list of 2015 to 2016 legislative bill submissions posted on its website, shows that almost half of 76 bill submissions had an environmental focus. The submissions relate to extensive legislative reform that is occurring in New Zealand in a number of areas including: environmental reporting, aquaculture, heritage, emissions trading, national environmental standards and policy statements, hazards management, freshwater reform, and resource management reform.

3 The Importance of New Zealand's Current Environmental Situation.

Environmental legislative reform relates to a number of issues facing New Zealand, including water degradation associated with increased dairying, the worrying state of Auckland's burgeoning population, more extreme weather, and the preservation of indigenous natural heritage. The government has attempted to deal with these problems by providing more national direction, and by requiring local governments to concentrate on 'core services' and 'quality infrastructure.'⁶

II TRANSLATING EDUCATION TO PRACTICE

Opportunities for employment in domestic environmental law practice can be determined in part by an examination of work streams related to specific statutes. A basic overview is shown in Table 1 below.⁷ In addition to the matters listed in this Table, several other practice areas have direct or indirect connections to the management of natural and physical resources, and/

3 Ibid s 5.

4 See eg, Richard M Fisher, 'New Zealand community boards: history, effectiveness, future prospects' (2015) 20 *Local Government Law Journal* 85; Richard M Fisher, 'Consultation requirements under New Zealand's Local Government Act 2002: lessons to date' (2011) 16 *Local Government Law Journal* 143.

5 Local Government New Zealand, *Priority areas and submissions* (2015) < <http://www.lgnz.co.nz/home/our-work/submissions/>>.

6 Richard M Fisher, 'New Zealand makes controversial changes to the purpose of local government' (2013) 18 *Local Government Law Journal* 69.

7 Information in this table was compiled by the author during New Zealand Qualifications Authority review of non-LLB environmental qualifications that occurred in New Zealand from 2013-2015. 'Work streams' represent potential employment areas requiring the application of legal knowledge to successfully undertake the most common processes associated with a given environmental statute, typically permissions to undertake activities.

or sustainable development. Examples include: building work, occupational safety and health, disaster management, and general public welfare.

The categories in Table 1 are broad, and may overlap in terms of desired skill sets (for example, ‘enforcement’). Furthermore, the skill sets desired by employers may not match educational content, particularly in specialised areas where a job applicant with existing practice experience in document preparation and office skills could be more highly valued than a recent graduate with better content knowledge. Finally, Table 1 does not consider future opportunities for international legal education for environmental career paths that could be created in the next ten to twenty years.

Statute	Work streams	Agencies
<i>Biosecurity Act 1996</i> (NZ)	-border control -pest management -enforcement	Ministry for Primary Industries
<i>Conservation Act 1986</i> (NZ)	-concessions -enforcement	Department of Conservation New Zealand Fish & Game Council
<i>Crown Minerals Act 1991</i> (NZ)	-minerals programmes -mining permits	New Zealand Petroleum and Minerals
<i>Environment Act 1986</i> (NZ)	-policy -environmental administration	Parliamentary Commissioner for the Environment Ministry for the Environment
<i>Environmental Protection Authority Act 2011</i> (NZ)	-emissions trading -marine consents -new organisms applications -resource consent processing	Ministry for the Environment
<i>Fisheries Act 1996</i> (NZ)	-fisheries management -enforcement	Ministry for Primary Industries Maritime New Zealand
<i>Forests Act 1949</i> (NZ)	-forest management -enforcement	Ministry for Primary Industries
<i>Resource Management Act 1991</i> (NZ)	-planning -resource consents -heritage protection -enforcement	Environment Court Heritage New Zealand Ministry for the Environment Regional and District Councils
<i>Wildlife Act 1953</i> (NZ)	-protection of wildlife	Department of Conservation

Table 1: Key New Zealand environmental laws and associated work streams

A Is LLB Education Serving the Needs of Environmental Practitioners?

A general LLB curriculum in New Zealand⁸ is likely to include the following subject content areas which are relevant to environmental law practice:

⁸ Course content was confirmed by a review of providers’ course descriptors available online.

1 *Tort Law*

Tort law in New Zealand encompasses the environmental common law which includes a focus on the public and private torts of nuisance⁹ that are well-canvassed in introductory tort law courses (notwithstanding the limitations of the common law in dealing with complex environmental problems).

2 *Criminal Law*

Criminal law environmental ‘crimes’ in New Zealand are largely regulatory offences.¹⁰ The distinction between absolute, strict liability and mens rea offences is a central component of introductory criminal law courses.

3 *Administrative Law*

A substantial portion of environmental litigation in New Zealand is associated with notification decisions under the RMA.¹¹ The consultation provisions of the LGA also attract significant legal activity. Public participation in decision making, and the right to challenge decision makers, are key principles of environmental law. Consequently, any introduction to administrative law will provide valuable education about Wednesbury principles, and may also canvass processes required to challenge administrative decisions under the *Judicature Amendment Act 1972* (NZ).

4 *Property Law*

Although property law is largely an area of specialist practice, even an introductory property law course provides valuable insight into the ‘bundle of rights’ associated with concepts of property, and the need to be mindful of extensive legislative overlays. An introductory course also provides the transformative moment when students learn that no one ‘owns’ anything: all that is possessed is a current proprietary right that is superior to others. This is a key foundation for natural and resource planning.

5 *Legal Research and Writing*

Legal research and writing is one of the most important skills taught to all introductory LLB students, including how to find and cite case law, and how to write, using proper legal formatting.

6 *Specialised Law Courses*

An online review of the websites of all of the six LLB-granting institutions in New Zealand shows that they offer at least one introductory environmental law course, and some offer several courses. All of the environmental law courses in New Zealand are electives. Content-specific course titles that may relate to the work streams identified in Table 1 above include: ‘Natural resources law’, ‘Resource management law’, ‘Water law’, ‘Maori land law’, and ‘Mineral and petroleum law’. More general courses such as: ‘Environmental law, conservation, and the public interest’ demonstrate the interdisciplinary nature of environmental law practice, and the importance of stakeholder management in environmental dispute resolution¹².

9 Claire Kirman and Christian Whata, ‘Environmental litigation and dispute resolution’ in Derek Nolan (ed) *Environmental and Resource Management Law* (Lexis Nexis Publishers, 3rd ed, 2005) 975.

10 Richard M Fisher, ‘Prosecution of environmental offenses under New Zealand’s Resource Management Act 1991: troublesome policy issues for local government’ (2005) 10 *Local Government Law Journal* 119.

11 Kirman and Whata, above n 9, 1015.

12 Kirman and Whata, above n 9.

B Other Tertiary Education Environmental Law Courses

Universities and degree-granting polytechnics which do not offer an LLB may nonetheless offer courses in environmental law. The most important non-LLB qualification related to environmental law is a planning degree, taught by institutions accredited by the New Zealand Planning Institute. Higher education law courses at Levels Five and above, might also form part of certificate or diploma studies in environmental studies, which may in turn be staircased to degrees offered by the same institution, or in partnership with another provider.

A review of current non-LLB environmental law at Level Five and above, offered by universities and polytechnics in New Zealand, can be clumped into the following content areas:

- Environmental and planning law.
- Resource management and local government law.
- Natural resources law.
- Conservation law.

The summary data above permits the following preliminary conclusions:

- Environmental law practice involves a multitude of agencies and work streams.
- There is a strong connection between environmental and governmental decision-making, due in large part to the legislative overlay between the RMA and the LGA.
- Environmental law educational content includes general LLB studies, specialist LLB environmental courses, and non-LLB education in environmental science and planning areas.

III RAMPING UP BETTER GOVERNMENT: A ROLE FOR DISTANCE EDUCATION

A Pedagogical Connections Between Distance and Environmental Education

Environmental law education is a component of ‘education for sustainability’ (EFS): an integrated approach to the study of environmental and development problems that originated in the 1980s¹³. EFS encompasses a multidisciplinary approach to people, communities, and economic development, with a proactive approach to sustaining the life-supporting capacities of natural and physical resources¹⁴. The presently accepted ‘about, in and for’ model that applies to EFS involves education *about* the environment (content learning), a provision of case studies *in* the environment (experiential education), and confirmation of learning that will allow graduates to advocate persuasively *for* sound decision making.¹⁵

The journey of personal transformative change that is an essential component of education for sustainability is also a central pillar in distance education pedagogy.¹⁶ This has been recognized since the 1990s, commencing with the pioneering work of Walter Leal Filho and others. Indeed, one of the first practical applications of distance learning pedagogy occurred in the context of engaging local communities in local decision making for better participatory democracy about managing the environment. Examples include: engaging with Canada’s Inuit/First Nations, and

13 Daniella Tilbury, ‘Environmental education for sustainability: defining the new focus of environmental education in the 1990s’ (2014) 1 *Environmental Education Research* 195.

14 John Blewitt and Cedric Cullingford (eds) *The sustainability curriculum* (Earthscan Publishing, 2013) 11.

15 John Fien, ‘Education for the Environment: Critical Curriculum Theorizing and Environmental Education’ in William Scott and Stephen Gough (eds), *Key issues in sustainable development and learning: a critical review* (Routledge Publishing, 2004) 93.

16 FarrukhTahir, ‘Distance education, environmental education and sustainability: an overview of universities in Commonwealth Asia’ (2001) 2 *International Journal of Sustainability in Higher Education* 21.

a variety of 'go local' educational initiatives in India and elsewhere, aimed at engaging local knowledge to effect lasting land management decisions.¹⁷

B Distinctions Among Distance Education, E-learning, and MOOCS

For clarity, this paper distinguishes distance education from e-learning, which the New Zealand Ministry of Education defines as 'learning that is facilitated by the use of digital tools and content'.¹⁸ In contrast, distance education is education where there is a geographical separation of teacher and learner, engaged in planned and guided learning, with the provision to the student of additional learning materials, whether it is print, digital, or a combination of both.¹⁹ The distinction is important because e-learning is not used at most universities and colleges for distance education purposes. Rather, it supplements on-campus teaching and learning.²⁰ Further, neither e-learning nor more generic 'online learning' follow any particular pedagogy in and of themselves. While they suggest semantically that learning may be taking place, the reality is that e-learning and online learning refer to a mix of technology and delivery, without a connection to a particular body or theory of learning.²¹

In contrast, whether or not distance education is delivered synchronously (in real time) or asynchronously, it retains its most important pedagogical feature which is, the geographical separation of teachers and learners. This 'transactional distance' has resulted in an extensive body of research and theory about the role of distance education, and its value for learners²².

It is also important to distinguish distance legal education from Massive Open Online Courses (MOOC). MOOCS are a specific type of online course, characterised by: large scale, free and open enrolment, embedded video and related content, no or little teacher-student interaction, and assignments that are evaluated either by peer or automated assessment.²³ The advantages of distance delivery to produce better-informed environmental practitioners include:

- Serving the needs of students who, for whatever reason, cannot attend face-to-face meetings at conventional institutions of higher learning. Typical education students work full-time or part-time, and are quite often 'second chance' students.²⁴
- Serving the needs of best practice sustainability education, which is largely about reaching a multitude of stakeholders, with varying levels of education (including some students who seek to take a single course in a specialised area, such as resource management practice, rather than a full degree).
- Promoting better participatory democracy. One of the most pressing challenges facing better government in New Zealand is seeking greater community engagement in local government decision making.²⁵ As noted above, education for sustainability has a long and rich association with distance education, while serving this need.

17 Walter Leal Filho and Farrukh Tahir, *Distance education and environmental education* (Peter Lane Publishers, 1998).

18 Ministry of Education, *Taking the next step: the interim tertiary e-learning framework* (Wellington Ministry of Education, 2004).

19 Richard M Fisher, 'Should we be allowing technology to remove the 'distance' from 'distance education'?' (2008) 18 *New Zealand Annual Review of Education* 31.

20 Sarah Guri-Rosenblit, "Distance education" and "e-learning" are not the same thing (2005) 49 *Higher Education* 467.

21 Melody Thompson, 'From distance education to e-learning', in Richard Andrews and Caroline Haythorhthwaite (eds) *The SAGE handbook of e-learning research* (Sage Publishing, 2007) 159.

22 Farhad Saba, 'Critical issues in distance education: a report from the United States' (2005) 26 *Distance Education* 255.

23 Philip G Schrag, 'MOOCS and legal education: valuable innovation or looming disaster' (2014) 59 *Villanova Law Review* 83.

24 John R Verduin and Thomas A Clark, *Distance education: the foundations of effective practice* (Jossey-Bass Publishers, 2007).

25 Local Government New Zealand, above n 5.

It may be important to note here that a person does not need to hold a current legal practicing certificate or be qualified as a lawyer, to represent clients in New Zealand's Environment Court, or in quasi-judicial boards of inquiry. The RMA contains a number of provisions dealing with resource consents and planning decisions that favour layperson participation. Even at local council hearings however, it is beneficial to have a knowledge of processes, and a basic understanding of environmental law principles. This need for basic knowledge provides additional leverage for considering the provision of environmental law education in continuing education contexts, outside the 'four squares' of an LLB.²⁶

C Distance Delivery of Legal Education

What is the current status of distance delivery of environmental law education? This might be better framed as two related questions:

1. What is the current status of distance delivery of legal education?
2. How is it being used for environmental law?

The answer to the first question can be answered simply: 'incipient but growing'. Recent research shows that in the United States, online legal education is now mainstream, with at least one third of higher education students enrolled in online courses.²⁷ In Australia, almost all law schools have policies mandating the use of online Learning Management Systems for course management. However the extent of its uptake for substantive distance delivery is variable, particularly with regard to mobile learning.²⁸

None of the New Zealand law schools at present, engage in distance education delivery as part of LLB study.²⁹ By extension, the New Zealand Council for Legal Education is only able to recognise distance education law courses for the purpose of admission if they form part of a domestic or overseas law qualification that is otherwise deemed to be equivalent to a New Zealand LLB³⁰. Similarly, the American Bar Association does not allow students to take courses online during the first year, and students are restricted to a maximum of fifteen credits in the course of a Juris Doctor degree. Exceptions do exist, notably in California, where state-level accreditation may be granted for study at fully online law schools so as to allow graduates to sit for the state bar.³¹

The future acceptability of distance legal education is likely to track technological advances in its delivery. Issues in technological advancement have been highlighted by MOOC activity, however unrelated it may be to formal distance education. The rise and popularity of MOOCs

26 The notion of 'meaningful access' applies to other areas of law. See, eg, Michael L Perlin, 'Online, distance legal education as an agent of social change' (2012) 24 *Pacific McGeorge Global Business & Development Law Journal* 95; Thomas D Morgan, 'The changing face of legal education: its impact on what it means to be a lawyer' (2012) 45 *Akron Law Review* 811.

27 See, eg, Steven C Bennett, 'Distance learning in law' (2014) 38 *Seton Hall Legislative Journal* 1; Hope Kentnor, 'Distance education and the evolution of online learning in the United States' (2015) 17 *Curriculum and Teaching Dialogue* 21.

28 Stephen Colbran and Anthony Gilding, 'E-learning in Australian law schools' (2010) 23 *Legal Education Review* 10. It is also worth noting that an online Learning Management System may be used in both online and face-to-face teaching, complicating true measures of its uptake for distance delivery.

29 Confirmed by email enquiry to school administrators.

30 New Zealand Council of Legal Education, 'Assessment of overseas law qualifications' (2015) <http://www.nzcle.org.nz/overseas_qualifications.html>. In response to email enquiries, the New Zealand Council of Legal Education confirmed that it occasionally receives applications that include some distance study course completions, and that both providers of the New Zealand Professional Legal Studies Course (Institute of Professional Legal Studies, and the College of Law) include courses with blended delivery, that is a combination of online and face-to-face teaching.

31 Max Huffman, 'Online learning grows up – and heads to law school' (2015) 49 *Indiana Law Review* 57.

has been explained as an outcome of the current pressures facing higher education worldwide.³² They include globalisation of education, demand for access, and the change in demographics that now celebrates life-long learning, and easier technological access. Among the issues raised by MOOCs are assessment methodologies, in particular how to credit distance study, and also how to ensure an appropriate pedagogy.

Providers have responded to this challenge in different ways. For example, the absence of an established pedagogy for e-learning does not prevent initiatives to seek best practice in online delivery of legal education. A study of social work law lecturers moving towards blended course delivery over a two year period³³ has shown that online teaching can lead to teacher satisfaction and positive attitudes to change. Factors favouring success include: a personal commitment to teach differently, and that it offers to build capacity through collaboration with others. As another example, Indiana University's School of Law has taken a measured approach to online legal education by adhering to four principles in online course creation and programme development:³⁴

1. Partnering with qualified course development experts;
2. Focusing solely on asynchronous delivery, based on its advantages of convenience for study, scheduling, and access to established pedagogical innovations;
3. Following a process of bespoke course design which adheres to previously established learning outcomes; and
4. Insisting on careful peer review and quality control.

One of the most compelling outcomes of Indiana University's initiatives has been the way that 'made to measure' course development has been undertaken while respecting faculty autonomy. In contrast, much third party online course development (notably MOOCs) favours scalability, and less individualism in course development. This depersonalises the enjoyment for teachers, and is likely to be a future tension in promoting online legal education.

As an aside, how does distance legal education respond to the challenges of the Socratic (ie argumentative) teaching method? Modern legal education is derived from case citation, supplemented by argumentative dialogue between teachers and students. The process involves question and answer face-to-face teaching, analysing past case law and attempting to apply the reasoning in it, to more generalised fact situations.

Clearly, this does not translate well to online education delivery, unless there is effective, synchronous communication between a teacher and students. Learning Management Systems such as Moodle and Blackboard, are unlikely to promote the requisite fluidity of interaction. Having said that, the Socratic method is finding disfavour in law schools. While it teaches critical thinking, it is believed to have limited value for future practitioners.³⁵

D Distance Delivery of Non-LLB Environmental Law Education

In the event that environmental law education was 'ramped up', by making it more available by distance, who would take it, and why? The answer to this question may be available, at least in part, by analysing student enrolment and other demographics for environmental law courses

³² Ioana Literat, 'Implications of massive open online courses for higher education: mitigating, or reifying educational inequities?' (2015) 34 *Higher Education Research & Development* 1164.

³³ Suzy Braye, Tish Marrable and Michael Preston Shoot, 'Building collaborative capacity for using and evaluating the impact of e-learning in social work education: the case of law' (2014) 33 *Social Work Education* 835.

³⁴ Max Huffman, 'Online learning grows up – and heads to law school' (2014) 49 *Indiana Law Review* 56.

³⁵ See, eg, Matt Hlinak, 'The Socratic method 2.0' (2014) 31 *Journal of Legal Studies Education* 1. During my own LLB studies at Dalhousie University in the 1990s, only contract law was still taught using the Socratic method. Discussions with Dalhousie teachers at that time indicated that it is no longer widely used in Canadian law schools.

presently taught by distance at the Open Polytechnic in New Zealand (Open Polytechnic). As a result, data were collected and analysed for two environmental law courses taught by distance at the Open Polytechnic. The data included enrolment information, notably work addresses where these were available. Additional information was derived from student evaluation forms, queries to students throughout course delivery, and from the marketing department at the Open Polytechnic.

Analysis of the data confirmed the general demographics for students who study at the Open Polytechnic. Typically, such students are:

1. Mature;
2. Working in full or part-time employment;
3. Seeking part-time study, primarily for professional development.

Those studying environmental law courses at the Open Polytechnic possessed a variety of qualifications at the time of enrolment, ranging from high school graduates to degree holders, including LLBs and Doctors of Philosophy. Summary analysis of student information revealed four major environmental law pathways:

1. Professional development in the context of current employment in the local government sector (20%).
2. Professional development in other environment-related employment (20%).
3. Those seeking entry into categories 1) and 2) (40%).
4. Others (20%).

The 'other' category, although smallest, provided a number of compelling personal narratives. It included categories of students best described as 'the passionate'. These students were personally involved in RMA consents for home and business, or were members of public interest groups associated with single issues, such as nearby windfarm development. Other examples were parents of young children, the retired, and other citizens who were concerned for their own environmental legacies, and wished to make a difference.

IV CONCLUSIONS

This article has discussed research which confirms the ways in which environmental law and associated decision making inform a great deal of central and local government activity in New Zealand. This research also shows the diversity of environmental law work streams, and the ways in which higher education can cater to these needs. Finally, a review of distance education in an environmental context strongly suggests that it holds promise as a means of enhancing environmental knowledge at a distance, benefitting as it does from existing pedagogies that in the past have favoured distance education as the preferred delivery platform for education for sustainability. The promotion of an expanded role for distance delivery of environmental law content in New Zealand and elsewhere is subject to a number of caveats. They include:

A Finding Best Use

Niche opportunities already exist for distance law education. In Australia, for example, it is being used increasingly for practical legal training, prior to admission to the legal profession.³⁶ In New Zealand, distance legal education is used regularly in real estate salesperson and legal executive training.³⁷ Is environmental law better suited to distance education than are other subject areas? The answer appears to be 'yes'. Factors favouring this conclusion include:

36 Kristoffer Greaves and Julianne Lynch, 'Is the lecturer in the room? A study of student satisfaction with online discussions in practical legal training' (2012) 22 *Legal Education Review* 1.

37 Open Polytechnic qualifications in these areas are recognized by the New Zealand Real Estate Agents Authority and Law Society, respectively, in the context of professional endorsement.

1. Its close relationship with education for sustainability, from which it can borrow established pedagogies;
2. Extremely active environmental reform, suggesting an ongoing role for professional development;³⁸
3. Informality in most environmental proceedings, relaxing the requirement for face-to-face, moot court practice; and
4. The reach of distance education to isolated New Zealand communities and local champions who can become part of current pushes towards ‘sub-council’ or ‘second-tier’ governance models.³⁹

Finding best use in New Zealand for distance environmental education is likely to require formal acknowledgement by organisations where it can be used for professional development and accreditation. Examples of agencies include: the New Zealand Planning Institute, the New Zealand Council of Legal Education, the Institute of Professional Legal Studies, the New Zealand Law Society, the College of Law, the Environment Institute of Australia and New Zealand, and Local Government New Zealand. Further development of distance education will likely require engagement with some or all of these providers.

B Ensuring Technological Capacity.

The movement towards legal distance education in its strict sense (ie no face-to-face contact between teachers and learners) typically involves a transitional stage of ‘blended’ or ‘hybrid’ delivery, where classroom time is reduced but not eliminated.⁴⁰ As noted elsewhere in this research, care is necessary to ensure that distance delivery stays ‘in step’ with technological capacity.⁴¹

C Avoiding the MOOC trap.

As noted elsewhere in this paper, MOOCs are a highly scaled variant of online education, which is very distinct from formal distance education. MOOCs are a concern for distance education because their weaknesses (lack of pedagogies, difficulties with assessment and recognition of prior learning, and abuse by diploma mills) perpetuate perceptions that distance learning is inferior to face-to-face teaching.⁴² Distance education advocates are in a position to respond to adverse perceptions caused by reckless MOOC activities, simply by ensuring that students are happy with distance education, and that it serves their needs in ensuring better environmental futures.

Quality management in this area has been assisted by qualification reviews undertaken by the New Zealand Qualifications Authority, as they apply to higher education study at New Zealand polytechnics⁴³. In a nutshell, the near-term future for the polytechnic sector will require stronger vocational linkages between what is being learned, why it is being learned, and how useful the learning has been in helping graduates find (and keep) employment. This could auger very well for the future of vocationally-based environmental education in this country, including an expanded role for distance delivery.

38 Major revisions to the RMA occurred in 2003, 2005, 2009, 2013, and a 2015 Bill is presently before the New Zealand Parliament. LGA reform is no less active, with major amendments being made to it in 2009, 2012, and 2015.

39 Local Government New Zealand, ‘*Community level governance: what provision should be made in local government legislation?*’ (2014) <<http://www.lgnz.co.nz/home/our-work/publications/community-level-governance/>>

40 Robert J Beck, ‘Teaching international law as a partially online course: the hybrid/blended approach to pedagogy’ (2010) 11 *International Studies Perspectives* 273.

41 Huffman, above n 34.

42 Anthony A Pina, ‘Online diploma mills: implications for legitimate distance education’ (2010) 31 *Distance Education* 121.

43 New Zealand Qualifications Authority, ‘*Reviews of qualifications*’ (2012) <<http://www.nzqa.govt.nz/qualifications-standards/quals-development/>>