



# LAW 316

## Property Law

S1 Day 2015

*Dept of Law*

### Contents

|                                |   |
|--------------------------------|---|
| <u>General Information</u>     | 2 |
| <u>Learning Outcomes</u>       | 2 |
| <u>Assessment Tasks</u>        | 3 |
| <u>Delivery and Resources</u>  | 7 |
| <u>Unit Schedule</u>           | 8 |
| <u>Policies and Procedures</u> | 9 |

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## General Information

Unit convenor and teaching staff

Convenor

Shayne Davenport

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W3A 519

Tuesday 12 - 1pm

Credit points

3

Prerequisites

18cp in LAW or LAWS units including LAW204

Corequisites

Co-badged status

Unit description

Property law lies at the heart of our legal system. Jeremy Bentham once aptly observed: 'Property and Law are born together and die together. Before laws were made there was no property; take away law, and property ceases'. This unit provides a contextual analysis and outline of the Anglo-Australian law on property and covers such topics as the history and theory of property law; systems of title to, and resolution of competing interests in, property; concurrent ownership of property; native title; and mortgages, leases, easement and covenants in relation to real property.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Demonstrate understanding of the historical development of Australian property law and of the major historical and theoretical principles that underlie it

Demonstrate a detailed knowledge of the major forms of title to land in Australia and appreciate the fundamental difference between the creation and transfer of property rights in law and in equity

Solve complex priority disputes between competing claimants to the same property through the application of doctrinal and procedural rules of law and equity

Critically analyse the way in which native title has been placed in the framework of Australian property law

Clearly communicate an integrated body of knowledge about property law and theory through completion of written assessment tasks and informed participation in class discussion

## Assessment Tasks

| Name                 | Weighting | Due                           |
|----------------------|-----------|-------------------------------|
| Quiz                 | 20%       | Wednesday 1 April, 2015       |
| Hypothetical Problem | 30%       | Monday 4 May: 5pm SHARP       |
| Examination          | 50%       | University Examination Period |

### Quiz

Due: **Wednesday 1 April, 2015**

Weighting: **20%**

The quiz will be based on the material covered in Lectures 1 – 4. Although the submission portal will remain open from 12pm – 9pm, the quiz is designed to be completed in 1 hour; the 9 hour time span is to accommodate the range of commitments and needs of students. It will consist of 20 multiple choice questions some of which will be based on short hypothetical problem questions. When a student accesses the quiz they have 1 hour in which to complete it. The questions and responses available to each student will vary as they will be allocated from a bank of questions, with the order of the responses presented to each student also varying. Answers will be automatically submitted at the end of the hour.

**NOTE VERY CLOSELY:** It is a student's responsibility to ensure that they can complete the quiz during the allotted time and date. No special consideration will be given for computer or browser problems.

On successful completion you will be able to:

- Demonstrate a detailed knowledge of the major forms of title to land in Australia and appreciate the fundamental difference between the creation and transfer of property

rights in law and in equity

## Hypothetical Problem

Due: **Monday 4 May: 5pm SHARP**

Weighting: **30%**

The hypothetical problem question will be based on the material in **lectures** 1 - 7 inclusive and will require a response to a hypothetical problem question involving property law.

### Formatting Requirements

- Word limit: 2000 words including footnotes
- 1.5 spacing for normal text;
- single spacing for indented quotations (quotes longer than three lines) and footnotes.
- Footnotes, not endnotes
- AGLC referencing (*Australian Guide for Legal Citation* can be downloaded free at: <http://www.law.unimelb.edu.au/D8D6DF60-3F6A-11E2-B7AA0050568D0140>)

**Submission of essays:** All essays are to be submitted electronically through the ilearn webpage by file upload

**NOTE VERY CLOSELY:** It is Law School policy that late assignments will not be accepted. It is a student's responsibility to allow sufficient time for file upload so that the essay is received by the due date and time and to ensure that the correct file is uploaded.

### 1. ASSESSMENT CRITERIA FOR HYPOTHETICAL PROBLEM QUESTIONS

FAIL (49% AND BELOW)

- fails to identify and discuss relevant issues of law raised by facts;
- contains incorrect statements of law;
- does not provide relevant authorities for propositions of law;
- inappropriate and/or irrelevant content, including circumstances in which the student has uploaded the incorrect file to the ilearn submission point;
- plagiarism, use of other students' work, 'recycling' own work from other units;
- difficult to read and/or understand through poor grammar, expression or structure

- fails to comply with formatting or submission instructions.

#### PASS (50% - 64%)

- correctly identifies and discusses a limited number of issues of law raised by the facts
- contains no significant errors of law;
- provides correct authorities for propositions of law;
- attempts to apply relevant law to the given facts;
- adequate expression and compliance with formatting and submission instructions.

#### CREDIT (65%-74%)

- correctly identifies and discusses most of the issues of law raised by the facts;
- contains no errors of law;
- provides correct authorities for propositions of law;
- successfully applies relevant law to the given facts;
- identifies differences between facts in the question and fact patterns in cases, and attempts to discuss relevance of this to the solution;
- identifies discrepancies/inconsistencies within the law, and attempts to resolve these where they are relevant to the given facts;
- attempts to explain which outcome is more likely where there is more than 1 possible solution to the problem;
- has clear structure and clear expression

#### DISTINCTION (75%-84%)

- well structured, clearly communicating the expected outcome
- correctly identifies and discusses all of the issues of law raised by the facts;
- contains no errors of law;
- provides correct authorities for propositions of law;

- identifies differences between facts in the question and fact patterns in cases, and successfully discusses the relevance of this to the solution;
- identifies discrepancies/inconsistencies within the law, and successfully resolves these where they are relevant to the given facts;
- gives reasoned argument in favour of policy outcomes where the issue is raised by the question

#### HIGH DISTINCTION (85% and above)

- satisfies all the criteria for a Distinction;
- is exceptionally well written and exceptionally well-structured.
- demonstrates superior and original analytical skills.

On successful completion you will be able to:

- Demonstrate a detailed knowledge of the major forms of title to land in Australia and appreciate the fundamental difference between the creation and transfer of property rights in law and in equity
- Solve complex priority disputes between competing claimants to the same property through the application of doctrinal and procedural rules of law and equity
- Clearly communicate an integrated body of knowledge about property law and theory through completion of written assessment tasks and informed participation in class discussion

## Examination

Due: **University Examination Period**

Weighting: **50%**

The University examination period in the first half of 2015 is from Tuesday 9 June to to Friday 26 June 2015. Unit convenors have no control over when examinations are scheduled and so students must be available to sit the examination on any date specified by the university during this time. The timetable will be available in draft form approximately eight weeks before the commencement of the examinations and in final form approximately four weeks before the commencement of the examinations.

The only exception to sitting an examination at the designated time is because of *serious and unavoidable disruption to study*. In these circumstances you must apply for Special Consideration. Information about unavoidable disruption and the special consideration process is available under the *Policies and Procedures* section of this Unit Guide.

On successful completion you will be able to:

- Demonstrate understanding of the historical development of Australian property law and of the major historical and theoretical principles that underlie it
- Demonstrate a detailed knowledge of the major forms of title to land in Australia and appreciate the fundamental difference between the creation and transfer of property rights in law and in equity
- Solve complex priority disputes between competing claimants to the same property through the application of doctrinal and procedural rules of law and equity
- Critically analyse the way in which native title has been placed in the framework of Australian property law
- Clearly communicate an integrated body of knowledge about property law and theory through completion of written assessment tasks and informed participation in class discussion

## **Delivery and Resources**

Online units can be accessed at: <http://ilearn.mq.edu.au/>.

PC and Internet access are required. Basic computer skills (e.g., internet browsing) and skills in word processing are also a requirement.

### **Text and Required Materials**

- Gray et al, Property Law in New South Wales, 3<sup>rd</sup> ed 2012, Lexisnexis
- Tutorial reading list and questions, lecture slides and additional material available

throughout the semester on unit webpage.

### Highly Recommended for reference

- Butt, P, Land Law, 6<sup>th</sup> ed. 2010, Thomson Reuters

## Unit Schedule

| Week    | Topic  |
|---------|--|
| Lecture |  |
| 1       | What is property?: Taxonomy; the division between real and personal property; the limits of real property; fixtures: Types of interest in land |
| 2       | The creation and transfer of interests in land under common law and equity: Old system title   |
| 3       | Old system priorities: Introduction to Torrens title:  |
| 4       | Torrens title I; indefeasibility and exceptions; forged mortgages.   |
| 5       | Torrens title priorities; the place of unregistered interests: Caveats and s43A <i>Real Property Act</i>                                       |
| 6       | Common Ownership and Strata Title  |
| 7       | Mortgages  |
| 8       | Leases and residential tenancies   |
| 9       | Easements and restrictive covenants  |
| 10      | Personal property  |
| 11      | Fundamental Principles; Tenures and estates: The history of Anglo-Australian land law: Native title  |
| 12      | Property the analytical dimension: Philosophies and contemporary issues  |



## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.