



# LAWS216

## Property Law

S1 External 2016

*Dept of Law*

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#### **Disclaimer**

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

## General Information

Unit convenor and teaching staff

Convenor

Shayne Davenport

[shayne.davenport@mq.edu.au](mailto:shayne.davenport@mq.edu.au)

Contact via [shayne.davenport@mq.edu.au](mailto:shayne.davenport@mq.edu.au)

W3A 522

Thursday 11 - 12

Credit points

3

Prerequisites

18cp including LAWS104 and (admission to LLB or BAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BPsych(Hons)LLB or BScLLB or BSecStudLLB or BSocScLLB)

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:

Describe 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

## General Assessment Information

### General Assessment Information

#### Disruption to Studies

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically, via [ask.mq.edu.au](http://ask.mq.edu.au), and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies Policy](#) for complete details of the policy and a description of the supporting documentation required.

Please note that a Disruption to Studies application will only be successful where the student experiences a serious and unavoidable disruption that could not have been reasonably anticipated, avoided or guarded against by the student AND was beyond the student's control AND caused substantial disruption to the student's capacity for effective study and/or completion of required work AND was at least three (3) consecutive days duration.

#### Submission

All assessments in the unit are to be submitted electronically by way of Turnitin on the iLearn page. Plagiarism detection software is used in this unit.

#### Word Limits

Word limits will be strictly applied and work above the word limit will not be assessed.

## Assessment Tasks

Name	Weighting	Due
<a href="#">Quiz</a>	20%	Wednesday 6 April, 2016 9pm
<a href="#">Hypothetical Problem</a>	30%	Monday 9 May: 5pm SHARP
<a href="#">Examination</a>	50%	University Examination Period

## Quiz

Due: **Wednesday 6 April, 2016 9pm**

Weighting: **20%**

The quiz will be based on the material covered in **Lectures 1 – 4**. Although the submission portal will remain open from 4pm – 9pm, the quiz is designed to be completed in 1 hour; the 5 hour time span is to accommodate the range of commitments and needs of internal and external students. It will consist of multiple choice and short answer questions some of which will be based on hypothetical problem questions. When a student accesses the quiz they will 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 9 May: 5pm SHARP**

Weighting: **30%**

The hypothetical problem question will be based on the material in **lectures 1 - 7** inclusive (see unit outline below for topics) and will require a response to a hypothetical problem question involving property law.

### Formatting Requirements

- Word limit: 1500 words excluding footnotes
- AGLC referencing (*Australian Guide for Legal Citation* can be downloaded free at: <http://www.law.unimelb.edu.au/D8D6DF60-3F6A-11E2-B7AA0050568D0140>)

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 examination is a formal 3 hour exam. It will be semi-open book. Students will be permitted to take in 4 single sided ( 2 double sided) printed or handwritten pages of their own notes to assist in answering the questions. The University examination period in the first half of 2016 is from Tuesday 14 June to Friday 24 June 2016. 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. If you will not be available to sit the examination during the examination period then do not enrol in this unit.

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. Students whose applications for disruption to study are approved will sit a formal supplementary examination at the Law School at a date to be notified.

On successful completion you will be able to:

- Describe 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 (purchase not suggested as new edition is expected in mid 2016)

## Unit Schedule

Week	Topic
<b>Lecture</b>	
1	The concept of 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; "volunteers" and indefeasibility
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
13	No lecture this week

## 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)

**New Assessment Policy in effect from Session 2 2016** [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html). For more information visit [http://students.mq.edu.au/events/2016/07/19/new\\_assessment\\_policy\\_in\\_place\\_from\\_session\\_2/](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/)

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

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

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.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://stu>

[dents.mq.edu.au/support/](https://dents.mq.edu.au/support/)

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](https://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](https://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

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

## Graduate Capabilities

### Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

### Learning outcomes

- Describe 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

- Quiz
- Hypothetical Problem
- Examination

## Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## Assessment tasks

- Hypothetical Problem
- Examination

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

## Learning outcomes

- 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

## Assessment tasks

- Quiz
- Hypothetical Problem
- Examination

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

## Learning outcomes

- 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

## Assessment tasks

- Hypothetical Problem
- Examination

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

### Learning outcomes

- Describe the historical development of Australian property law and of the major historical and theoretical principles that underlie it
- Critically analyse the way in which native title has been placed in the framework of Australian property law

## Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

### Learning outcome

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

## Changes since First Published

Date	Description
21/01/2016	change of office