LAWS216

Property Law

S1 Day 2017

Dept of Law

Contents

General Information 2

Learning Outcomes 3

Assessment Tasks 3

Delivery and Resources 4

Unit Schedule 4

Policies and Procedures 5

Graduate Capabilities 6

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
Co-Convener
David Mullan
david.mullan@mq.edu.au

Co-Convener
Teresa Somes
teresa.somes@mq.edu.au

Teresa Somes
teresa.somes@mq.edu.au

Credit points
3

Prerequisites
(18cp at 100 level or above) including LAWS104 and (admission to LLB or BAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BBALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BPsych(Hons)LLB or BMediaLLB or BScLLB or BSecStudLLB or BSocScLLB)

Corequisites

Co-badged status
LAW316

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.

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

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.

Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Assessment Tasks

Name	Weighting	Hurdle	Due
Essay	40%	No	17 April 2017
Take Home Assessment	60%	No	12 June 2017

Essay

Due: **17 April 2017**
Weighting: **40%**

Students will be provided with an essay question, details and marking rubric on iLearn.

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.
- Critically analyse the way in which native title has been placed in the framework of Australian property law.
- Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Take Home Assessment

Due: **12 June 2017**

Weighting: **60%**

Students will be provided with a take home assessment focusing on substantive property law. Full details will be released on iLearn.

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.
- Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Delivery and Resources

Compulsory Text

James Gray, Brendan Edgeworth, Neil Foster, Shaunnagh Dorsett, *Property Law in New South Wales* (LexisNexis, 3rd edition).

Lectures

Lectures will be delivered live but recorded.

Tutorials

Weekly tutorials will be conducted for internal students. An On Campus Session is scheduled for the 20th and 21st April 2017. The On Campus Session will be held in W5C 336.

Tutorials and the On Campus Session are beneficial but not compulsory. Students are encouraged to attend only where they have completed the weekly readings, lecture and made an attempt at the weekly questions posted to iLearn.

Online Units

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.

Unit Schedule

Week	Topic
Lecture	
1	Fundamental Principles; Tenures and estates: The history of Anglo-Australian land law: Native title

2	Property the analytical dimension: Philosophies and contemporary issues
3	The concept of property?: Taxonomy; the division between real and personal property; the limits of real property; fixtures: Types of interest in land
4	The creation and transfer of interests in land under common law and equity: Old system title
5	Old system priorities: Introduction to Torrens title:
6	Torrens title I; indefeasibility and exceptions; "volunteers" and indefeasibility
7	Torrens title priorities; the place of unregistered interests: Caveats and s43A *Real Property Act*
8	Common Ownership and Strata Title
9	Mortgages
10	Leases and residential tenancies
11	Easements and restrictive covenants
12	Personal property
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

Assessment Policy http://mq.edu.au/policy/docs/assessment/policy_2016.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

Disruption to Studies Policy (in effect until Dec 4th, 2017): http://www.mq.edu.au/policy/docs/disruption_studies/policy.html

Special Consideration Policy (in effect from Dec 4th, 2017): https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration

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/

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.

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) 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

IT Help

For help with University computer systems and technology, visit 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

Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

Assessment task

- Essay

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcome

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

Assessment task

- Take Home Assessment

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

- Demonstrate understanding of 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.
- 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.

- Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Assessment tasks

- Essay
- Take Home Assessment

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:

Learning outcomes

- Demonstrate understanding of 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.
- 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.
- Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Assessment tasks

- Essay
- Take Home Assessment

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 understanding of 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.
- Solve complex priority disputes between competing claimants to the same property through the application of doctrinal and procedural rules of law and equity.
- Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Assessment tasks

- Essay
- Take Home Assessment

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

- Critically analyse the way in which native title has been placed in the framework of Australian property law.
- 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.
- Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Assessment tasks

- Essay
- Take Home Assessment

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 outcome

- 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.