LAW 316
Property Law
S1 Day 2017
Dept of Law

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# General Information

<table>
<thead>
<tr>
<th>Unit convenor and teaching staff</th>
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<tbody>
<tr>
<td>Co-Convener</td>
<td></td>
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<tr>
<td>David Mullan</td>
<td><a href="mailto:david.mullan@mq.edu.au">david.mullan@mq.edu.au</a></td>
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<tr>
<td>Co-Convener</td>
<td></td>
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<tr>
<td>Teresa Somes</td>
<td><a href="mailto:teresa.somes@mq.edu.au">teresa.somes@mq.edu.au</a></td>
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<tr>
<th>Credit points</th>
<th>3</th>
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<tr>
<th>Prerequisites</th>
<th>12cp at 100 level or above and (6cp at 200 level including LAW204)</th>
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<th>Corequisites</th>
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<tr>
<th>Co-badged status</th>
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<tr>
<td>LAWS216</td>
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<table>
<thead>
<tr>
<th>Unit description</th>
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<tr>
<td>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.</td>
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# Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at [http://students.mq.edu.au/student_admin/enrolmentguide/academicdates/](http://students.mq.edu.au/student_admin/enrolmentguide/academicdates/)

# Learning Outcomes

1. Demonstrate understanding of the historical development of Australian property law and of the major historical and theoretical principles that underlie it.
2. Critically analyse the way in which native title has been placed in the framework of Australian property law.

3. 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.

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

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

**Assessment Tasks**

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Due</th>
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<tbody>
<tr>
<td>Essay</td>
<td>40%</td>
<td>17 April 2017</td>
</tr>
<tr>
<td>Take Home Assessment</td>
<td>60%</td>
<td>12 June 2017</td>
</tr>
</tbody>
</table>

**Essay**

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

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

This Assessment Task relates to the following 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.
- 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.

This Assessment Task relates to the following 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.
• Communicate an integrated body of knowledge about property through active and informed participation in class discussion.

Delivery and Resources

Compulsory Text


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

<table>
<thead>
<tr>
<th>Week</th>
<th>Topic</th>
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<tr>
<td></td>
<td>Lecture</td>
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<tr>
<td>1</td>
<td>Fundamental Principles; Tenures and estates: The history of Anglo-Australian land law: Native title</td>
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<tr>
<td>2</td>
<td>Property the analytical dimension: Philosophies and contemporary issues</td>
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### Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](http://mq.edu.au/policy/docs/). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- **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](http://mq.edu.au/policy/docs/) of Policy Central.

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

Equity Support
Students with a disability are encouraged to contact the [Disability Service](http://students.mq.edu.au/support/) who can provide appropriate help with any issues that arise during their studies.

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](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities
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

**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.
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- 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

**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

**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.

**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.
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Assessment tasks

- Essay
- Take Home Assessment