



LAWS809

Property Law

S1 Day 2017

Dept of Law

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General Information

Unit convenor and teaching staff

Co-Convener

David Mullan

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Credit points

4

Prerequisites

LAWS803

Corequisites

Co-badged status

Unit description

Property is a fundamental legal concept in contemporary western societies. In this unit the property concept is examined from theoretical and practical perspectives. Initially, the question of what the concept should encompass is raised, looking particularly at the person/property distinction and at the boundaries of property such as ownership of the human body and its parts and digital property. Moral implications and economic justifications for the allocation of property rights are then introduced. The major portion of the unit is concerned with a thorough examination of the practical application of property law in Australia beginning with the law of personal property and continuing with systems of title to land (old system, Torrens and native title), the primary interests in land such as mortgages, easements, leases and covenants and concurrent ownership. Analytical and problem solving skills are developed through hypothetical problem exercises and careful consideration of authoritative case law.

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
<u>Essay</u>	40%	No	17 April 2017
<u>Take Home Assessment</u>	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 <i>Real Property Act</i>
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.m](#)

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

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

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.

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

- 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.

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

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.

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

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.
- 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.