



# LAW 866

## Indigenous Peoples and the Law

S2 External 2017

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Unit Convenor

Francesca Dominello

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W3A 619

by email or appointment

Credit points

4

Prerequisites

Admission to MEnvLaw or MIntEnvLaw or LLM or MDevCult or GradDipIntRel or MPPP or GradDipPP or MDevStudGlobalHlth or MDevStud or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 24cp in LAW or LAWS units at 800 level)

Corequisites

Co-badged status

Unit description

The special place of Indigenous peoples in Australia gives rise to unique questions of law. First, there is the challenge of acknowledging the existence of more than one legal order in the one geographical space. Then, there are the terms of coexistence of these legal orders. And finally, there is a question of how effectively the Australian legal system regulates issues particular to Indigenous peoples. The unit explores these issues in Australia, and also looks to the International legal community and the experience of other settler-colonised states in understanding the limits of law in protecting the rights of Indigenous peoples.

## 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:

Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.

Develop advanced oral communication skills by critically reflecting on the unit materials,

formulating and presenting oral arguments, and critically engaging with other students in class .

Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.

Develop advanced research and writing skills by following instructions in referencing primary and secondary research sources appropriate for research essay writing.

Develop advanced research and writing communication skills by producing a sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.

Take responsibility for your own learning in research essay writing and participating in class by managing time productively; planning tasks; and working effectively towards their completion.

## General Assessment Information

### Task 1: Class Participation and Attendance

#### External Students

Attendance at both days of the on-campus session is compulsory: students cannot attend for a third or a half day for instance and think they have fulfilled the requirements for attendance. Students who do not attend without a successful application for disruption will receive 0 marks. In the event of a disruption, you will be required to make up the 20% Class Participation mark by completing extra written work. The onus is on you to ensure that the Unit Convenor knows your situation and sets the make up work, and that you submit it at the agreed time.

Please note that attendance is compulsory for pedagogical reasons, and exemption is granted only in exceptional circumstances and only in cases where a successful application for disruption has been made.

#### Moderation

Detailed marking rubrics will be made available on iLearn.

### Task 2: Research Essay Proposal

The Essay Proposal is due on Thursday 28 September 2017 at 5:00pm.

It is worth 30% of the final mark.

Maximum word length for the Proposal is 2000 (excluding footnotes and bibliography).

Any words that exceed the word length will not be read.

Footnotes and bibliography are required.

Referencing must comply with the current version of the *Australian Guide to Legal Citation*.

The Proposal must be typed in 12pt Times New Roman, double spaced with margins of not less than 2.5cm on both sides. Bibliography should be single spaced in 12pt Times New Roman. Footnotes should be in 10pt Times New Roman.

The Essay is to be submitted as a **word document** via Turnitin on the iLearn page on or before the due date.

Late submissions will not be marked and in the absence of a successful claim of "Disruption to Studies" will be given a grade of zero.

#### Moderation

Detailed marking rubrics will be made available on iLearn.

### Task 3: Research Essay

The Research Essay is due on Thursday, 9 November 2015 at 5:00pm.

It is worth 50% of the final mark.

Maximum word length for Research Essay is 4000 (excluding footnotes and bibliography).

Any words that exceed the word length will not be read.

Footnotes and bibliography are required.

Referencing must comply with the current version of the *Australian Guide to Legal Citation*.

The Research Essay must be typed in 12pt Times New Roman, double spaced with margins of not less than 2.5cm on both sides. Bibliography should be single spaced in 12pt Times New Roman. Footnotes should be in 10pt Times New Roman.

The Research Essay is to be submitted as a **word document** via Turnitin on the iLearn page on or before the due date.

Late submissions will not be marked and in the absence of a successful claim of "Disruption to Studies" will be given a grade of zero.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Class Participation</a>	20%	No	Ongoing
<a href="#">Research Essay Proposal</a>	30%	No	28 Sept, 5pm
<a href="#">Research Essay</a>	50%	No	9 Nov, 5pm

### Class Participation

Due: **Ongoing**

Weighting: **20%**

Class Participation: Preparation and understanding of prescribed materials. The ability to understand and respond in an oral communication context.

See the General Assessment Information in the tab below for administrative details about attendance, marking guide, rubric etc.

On successful completion you will be able to:

- Develop advanced oral communication skills by critically reflecting on the unit materials, formulating and presenting oral arguments, and critically engaging with other students in class .
- Take responsibility for your own learning in research essay writing and participating in class by managing time productively; planning tasks; and working effectively towards their completion.

### Research Essay Proposal

Due: **28 Sept, 5pm**

Weighting: **30%**

Students are to select an area of law canvassed in the unit materials and devise a research topic on the impact of this area on Indigenous Australians.

In their research proposal students are to address the following:

1. Your research question (the topic and the issue you plan to address).
2. Why is it significant (why did you choose this topic and what is the aim of your research).
3. What have others in the field said about this particular issue (literature review).
4. How will your research contribute to the field (develop a potential reform agenda).
5. Your methodological approach (eg doctrinal, interdisciplinary, comparative).

## 6. Initial bibliography of key primary and secondary sources.

See the General Assessment Information in the tab below for administrative details about the essay (word length, due date, submission details, marking guide, rubric etc).

On successful completion you will be able to:

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing skills by following instructions in referencing primary and secondary research sources appropriate for research essay writing.
- Develop advanced research and writing communication skills by producing a sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.
- Take responsibility for your own learning in research essay writing and participating in class by managing time productively; planning tasks; and working effectively towards their completion.

## Research Essay

Due: **9 Nov, 5pm**

Weighting: **50%**

Submission of Research Essay.

Students are expected to submit a research essay that builds on their previously submitted Research Essay Proposal.

See the General Assessment Information in the tab below for administrative details about the essay (word length, due date, submission details, marking guide, rubric etc).

On successful completion you will be able to:

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing skills by following instructions in referencing

primary and secondary research sources appropriate for research essay writing.

- Develop advanced research and writing communication skills by producing a sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.
- Take responsibility for your own learning in research essay writing and participating in class by managing time productively; planning tasks; and working effectively towards their completion.

## Delivery and Resources

Lectures will be recorded and available on iLearn.

Attendance on both days of OCS is compulsory for External students. See [timetables.mq.edu.au/2017/](http://timetables.mq.edu.au/2017/) for further details.

Students will be required to use a computer to access the iLearn page for the unit ([ilearn.mq.edu.au](http://ilearn.mq.edu.au)) and to interact with online research databases and web-based research tools.

The prescribed text for the unit is Heather McRae et al, *Indigenous Legal Issues: Commentary and Materials* (Lawbook Co, 2009, 4th Ed) available for purchase at the Macquarie University Co-op Bookshop.

Recommended text (but not compulsory for students to buy) is Larissa Behrendt et al, *Indigenous Legal Relations in Australia* (OUP, 2009).

Additional readings will be available on iLearn.

All other information about the unit is available on the iLearn page for the unit.

## Unit Schedule

The weekly lecture schedule is as follows.

Week 1: History, Law and Government Policies (and Reconciliation Chapter 13)

Week 2: Indigenous Customary Law

Week 3: Indigenous Governance

Week 4: The Indigenous Estate

Week 5: Land Rights Legislation

Week 6: Native Title: An Overview of its Development in Australia

Week 7: Native Title: Specific Features of Law and Process

Mid-Semester Break

OCS 16 and 17 Sept

Research Essay Proposal (due Thursday, 28 September 2015, 5:00pm)

Week 8: Indigenous Intellectual Property and Indigenous Cultural Heritage

Week 9: Racial Discrimination

Week 10: Criminal Justice Issues

Week 11: Child Welfare

Week 12: International Law

Research Essay (due Thursday, 9 November 2015, 5:00pm)

## **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\\_2016.html](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](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](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/](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).

## **Macquarie Law School Assessment Policy**

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.



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

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## 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://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

### PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

### Learning outcomes

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.

- Develop advanced oral communication skills by critically reflecting on the unit materials, formulating and presenting oral arguments, and critically engaging with other students in class .
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing communication skills by producing a sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.
- Take responsibility for your own learning in research essay writing and participating in class by managing time productively; planning tasks; and working effectively towards their completion.

## **Assessment tasks**

- Class Participation
- Research Essay Proposal
- Research Essay

## **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**

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced oral communication skills by critically reflecting on the unit materials, formulating and presenting oral arguments, and critically engaging with other students in class .
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing skills by following instructions in referencing primary and secondary research sources appropriate for research essay writing.
- Develop advanced research and writing communication skills by producing a

sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.

## **Assessment tasks**

- Class Participation
- Research Essay Proposal
- Research Essay

## **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**

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced oral communication skills by critically reflecting on the unit materials, formulating and presenting oral arguments, and critically engaging with other students in class .
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing communication skills by producing a sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.

## **Assessment tasks**

- Class Participation
- Research Essay Proposal
- Research Essay

## **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**

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced research and writing communication skills by producing a sophisticated legal research essay that critically evaluates the impact of a key area of law on Indigenous Australians and formulates reforms to create a more just system of law for Indigenous Australians.

### **Assessment tasks**

- Research Essay Proposal
- Research Essay

## **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**

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced oral communication skills by critically reflecting on the unit materials, formulating and presenting oral arguments, and critically engaging with other students in class .
- Develop advanced research and writing skills by using appropriate legal research methodologies and carrying out independent research and analysis with respect to a key area of Australian law and its impact on Indigenous Australians.
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- Take responsibility for your own learning in research essay writing and participating in class by managing time productively; planning tasks; and working effectively towards their completion.

## **Assessment tasks**

- Class Participation
- Research Essay Proposal
- Research Essay

## **PG - Engaged and Responsible, Active and Ethical Citizens**

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## **Learning outcomes**

- Work independently to devise an appropriate topic for a legal research essay focused on a key area of Australian law and its impact on Indigenous Australians.
- Develop advanced oral communication skills by critically reflecting on the unit materials, formulating and presenting oral arguments, and critically engaging with other students in class .
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## **Assessment tasks**

- Class Participation
- Research Essay Proposal
- Research Essay