LAWS216

Property Law

S1 Day 2018

Dept of Law

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General Information

Unit convenor and teaching staff
Convener
Shayne Davenport
shayne.davenport@mq.edu.au
Contact via Email
Thursday 4 - 5

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 and the completion of relevant assessment tasks.

General Assessment Information

Late Submission Penalty

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Assessment Tasks

Name	Weighting	Hurdle	Due
Quiz	20%	No	4 April
Hypothetical problem question	30%	No	8 May 2018
FInal examination	50%	No	University examination period

Quiz

Due: **4 April**
Weighting: **20%**

The quiz will be based on the material covered in Lectures 1 – 4. Although the submission portal will remain open from 12pm – 8pm, the quiz is designed to be completed in 1 hour; the 8 hour time span is to accommodate the range of commitments and needs of both internal and external students. It will consist of 20 multiple choice questions some of which will be based on short hypothetical problem questions. When a student accesses the quiz they 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.

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.

Hypothetical problem question

Due: **8 May 2018**
Weighting: **30%**

The hypothetical problem question will be based on the material in **lectures** 3 - 7 (tutorial weeks 4 - 8) inclusive and will require a response to a hypothetical problem question involving property law.

Word limit 1500 including footnotes.

Further information and a marking rubric will be available on the question.

On successful completion you will be able to:

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FInal examination

Due: **University examination period**
Weighting: **50%**

The University examination period in the first half of 2018 is from Tuesday 12 June to to Friday 29 June 2018. 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.

The only exception to sitting an examination at the designated time is because a student has been granted Special Consideration because of short-term, unexpected, serious and unavoidable circumstances, which affect their performance in an assessment. Information about

the Special Consideration policy is available under the *Policies and Procedures* section of this Unit Guide. Students who successfully apply for Special Consideration under this process will sit a formal supplementary exam to be held at the Law School on a date to be advised.

On successful completion you will be able to:

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- Communicate an integrated body of knowledge about property through active and informed participation in class discussion and the completion of relevant assessment tasks.

Delivery and Resources

Compulsory Text

Janice Gray, Neil Foster, Shaunnagh Dorsett, Heather Roberts, *Property Law in New South Wales* , 4th ed, 2017, LexisNexis

Recommended additional reference: Students are not expected to purchase this reference: Brendan Edgeworth, Butt's Land Law, 7th ed, Thomson Reuters, 2017

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 18th and 19th April 2018 in Room 207, 25a Wallys Wlk. Please check the timetable closer to the date for confirmation: timetables@mq.edu.au

Tutorials and the On Campus Session are beneficial but not compulsory. All material necessary to answer the assessment questions will be covered in tutorials and at the on campus session.

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

LECTURE SCHEDULE, SEMESTER 1, 2018 - SUBJECT TO REVISION: CHECK ILEARN

FOR DETAILED SCHEDULE

TOPIC	Week commencing 2018	ISSUES
1	26/2	Introduction to the Unit The Concept of Property; theories of property
2	5/3	Fundamental principles; Native title
3	12/3	Land fixtures and chattels
4	19/3	The creation and transfer of interests in land under common law and equity: Old system title
5	26/3	Old system priorities: Introduction to Torrens title
6	2/4	Torrens title I; indefeasibility and exceptions; "volunteers" and indefeasibility
7	9/4	Torrens title priorities; the place of unregistered interests: Caveats and s43A *Real Property Act*
		MID SEMESTER BREAK – ON CAMPUS SESSION 18 and 19 April
8	30/4	Co-ownership and strata title
9	7/5	Leases and residential tenancies
10	14/5	Mortgages and other security interests
11	21/5	Private land use planning: Easements
12	28/5	Private land use planning: Freehold covenants
13	4/6	**NO LECTURE THIS WEEK**

Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- Academic Appeals Policy
- Academic Integrity Policy

- Academic Progression Policy
- Assessment Policy
- Fitness to Practice Procedure
- Grade Appeal Policy
- Complaint Management Procedure for Students and Members of the Public
- Special Consideration Policy *(**Note:** The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.)*

Undergraduate students seeking more policy resources can visit the Student Policy Gateway (https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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

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

- Hypothetical problem question

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 and the completion of relevant assessment tasks.

Assessment tasks

- Quiz
- Hypothetical problem question
- FInal 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:

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 and the completion of relevant assessment tasks.

Assessment tasks

- Quiz
- Hypothetical problem question
- FInal 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.
- Communicate an integrated body of knowledge about property through active and informed participation in class discussion and the completion of relevant assessment tasks.

Assessment tasks

- Quiz
- Hypothetical problem question
- FInal 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

- 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 and the completion of relevant assessment tasks.

Assessment tasks

- Hypothetical problem question
- FInal 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

- 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.

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 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.