



LAWS8009

Property Law

Session 1, Infrequent attendance, North Ryde 2020

Macquarie Law School

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General Information

Unit convenor and teaching staff

Course convenor

Teresa Somes

teresa.somes@mq.edu.au

Contact via email

Level 5, Room 539, 6 First Walk

Thursday 2-3pm

Credit points

10

Prerequisites

LAWS803 or LAWS8030

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:

ULO1: Critique and describe the historical development of Australian property law and of

the major historical and theoretical principles that underlie it.

ULO2: Critically analyse the way in which native title has been placed in the framework of Australian property law.

ULO3: Explain and critique the major forms of title to land in Australia and the fundamental difference between the creation and transfer of property rights in law and equity.

ULO4: Explain complex priority disputes between competing claimants to the same property through the application of doctrinal and procedural rules of law and equity.

Assessment Tasks

Coronavirus (COVID-19) Update

Assessment details are no longer provided here as a result of changes due to the Coronavirus (COVID-19) pandemic.

Students should consult [iLearn](#) for revised unit information.

[Find out more about the Coronavirus \(COVID-19\) and potential impacts on staff and students](#)

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 and exams.

Quiz

Due: **Week 3** Weighting: **0%**

The quiz will be based on the material covered in Lectures 1 – 3. This quiz is for the purposes of self assessment and carries no weight.

On successful completion you will be able to:

- Describe and analyse 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.

Assignment

Due: **24 April 2020 (5pm)** Weighting: **30%**

The assignment question will be available on ilearn in week 1.

The answer provided must be a properly referenced response with appropriate analysis and argument supported by relevant authoritative cases and commentary. The response must be typed and must be kept to a maximum 2000 words (excluding footnotes and the bibliography). The word limit will be strictly applied and work above the word limit will not be marked.

The assignment must be electronically submitted. Plagiarism detection software is used in this unit.

In completing their answer, students must comply with the latest edition of the *Australian Guide to Legal Citation* (AGLC 4) compiled by the Melbourne University Law Review.

Further instructions and information in relation to the assignment, including detailed marking rubrics, will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all fail papers are double marked.

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, and an assignment submitted after this date, without special consideration will receive zero.

If, for justifiable reasons, a student is unable to submit the assignment on time, he or she may submit an application for special consideration pursuant to the University's Disruption to Studies Policy.

Applications for special consideration pursuant to the Disruption to Studies Policy are made electronically via 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.

On successful completion you will be able to:

- Describe and analyse 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 sophisticated understanding of the major forms of title to land in Australia and analyse 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 advanced body of knowledge about property through active and informed participation in class discussion, and the presentation of sophisticated written material.

Final take home exam

Due: **12 June 2020 (5pm-9pm)** Weighting: **50%**

The final examination in this unit will be a take home examination.

The hypothetical take home problem questions will be based on the material from the whole course and will require a response to two hypothetical problem questions involving property law. Both questions must be answered.

Students will be able to access the final examination paper on iLearn from 5pm on Friday 12 June 2020 and must submit their answers to the final examination paper by 9 pm on Friday 12 June 2020. The assignment must be electronically submitted. Plagiarism detection software is used in this unit.

A student's answers to the final examination paper's questions cannot exceed 2,000 words (exclusive of footnotes). This is an upper word limit and a student need not write 2,000 words if he or she can answer the questions in less than 2,000 words. A bibliography is not required. The word limit will be strictly applied and work above the word limit will not be marked. The answers to the examination questions must be typed.

Students are not required to comply with strict AGLC referencing, however must provide authority which can be provided via footnotes.

Further instructions and information in relation to the final examination will be made available on iLearn.

If, for justifiable reasons, a student is unable to do the final examination at the above time or his or her performance in the final examination is adversely affected, he or she should submit an application for special consideration pursuant to the University's Disruption to Studies Policy, which, if granted, will enable the student to complete an alternative assessment. The alternative assessment may not be in the form of a take home examination - it may take some other form such as a formal sit down examination.

Applications for special consideration pursuant to the Disruption to Studies Policy are made electronically via 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.

Any student who does not submit answers to the final examination or supplementary examination, as the case may be, on time or at all, will receive a zero mark for the this assessment item.

On successful completion you will be able to:

- Demonstrate a sophisticated understanding of the major forms of title to land in Australia

and analyse 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 advanced body of knowledge about property through active and informed participation in class discussion, and the presentation of sophisticated written material.

Tutorial Participation

Due: **continuous** Weighting: **20%**

Students will be assessed on their ability to demonstrate knowledge of the required readings and lecture material and their oral and written discussion of those materials in weekly tutorials. A complete marking rubric will be available on iLearn

On successful completion you will be able to:

- Describe and analyse 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 sophisticated understanding of the major forms of title to land in Australia and analyse 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 advanced body of knowledge about property through active and informed participation in class discussion, and the presentation of sophisticated written material.

Delivery and Resources

Coronavirus (COVID-19) Update

Any references to on-campus delivery below may no longer be relevant due to COVID-19.

Please check here for updated delivery information: https://ask.mq.edu.au/account/pub/display/unit_status

Compulsory Text

Brenden Edgeworth, Chris Rossiter, Pamela O'Connor, Andrew Godwin, *Sackville and Neave*;

Australian Property Law (Lexis Nexis, 10th edition 2016)

Recommended additional reference: Students are not expected to purchase this reference:

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

Brendan Edgeworth, *Butt's Land Law*, 7th ed, Thomson Reuters, 2017

Lectures

Fridays 11-1 pm 10 Hadenfeld Avenue: T1 Theatre

Lectures will be delivered live but recorded.

Tutorials

Thursday 10 - 11am: 11 Wally's Walk, Tutorial Room 180

On Campus Sessions

Saturday 18th - Sunday 19th April, 9am - 4pm: 12 Second Way, Tutorial Room 310.

External students will also be invited to participate in an online (zoom) revision tutorial run by both the convenor and tutor, prior to the examination period. Date, time and instructions will be available on ilearn towards the end of semester.

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

Coronavirus (COVID-19) Update

The unit schedule/topics and any references to on-campus delivery below may no longer be relevant due to COVID-19. Please consult [iLearn](#) for latest details, and check here for updated delivery information: https://ask.mq.edu.au/account/pub/display/unit_status

Week	Topic

1 (24 Feb)	Introduction to the Unit. The concept of property: theories of property (NO TUTORIAL)
2 (2 Mar)	Fundamental principles: native title
3 (9 Mar)	Land fixtures and chattels
4 (16 Mar)	The creation and transfer of interests in land under common law and equity: Old system title
5 (23 Mar)	Old system priorities: Introduction to Torrens title:
6 (30 Mar)	Torrens title I; indefeasibility and exceptions; "volunteers" and indefeasibility
7 (6 Apr)	Torrens title priorities; the place of unregistered interests: Caveats and s43A <i>Real Property Act</i>
8 (27 Apr)	Common Ownership and Strata Title
9 (4 May)	Leases
10 (11 May)	Mortgages
11 (18 May)	Easements
12 (25 May)	Freehold covenants
13 (1 June)	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) (<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.)

Students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/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](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<http://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 published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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 or if you are a Global MBA student contact globalmba.support@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 help you improve your marks and take control of your study.

- [Getting help with your assignment](#)
- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

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

If you are a Global MBA student contact globalmba.support@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.