



# LAWS8009

## Property Law

Session 1, In person-scheduled-weekday, North Ryde 2022

*Macquarie Law School*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Dr Henry Kha

[henry.kha@mq.edu.au](mailto:henry.kha@mq.edu.au)

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.

## General Assessment Information

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – 10 marks out of 100 credit will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted seven 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
<u>Class Participation</u>	20%	No	Ongoing
<u>Quiz</u>	0%	No	17 March 2022
<u>Essay</u>	30%	No	8 April 2022
<u>A Time-Limited Take Home Test</u>	50%	No	9 June 2022

### Class Participation

Assessment Type <sup>1</sup>: Participatory task

Indicative Time on Task <sup>2</sup>: 24 hours

Due: **Ongoing**

Weighting: **20%**

Students will be assessed on their ability to demonstrate knowledge of the required readings and lecture material and their oral discussion of those materials in tutorials.

On successful completion you will be able to:

- Critique and describe 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.
- 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.

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

## Quiz

Assessment Type <sup>1</sup>: Quiz/Test

Indicative Time on Task <sup>2</sup>: 4 hours

Due: **17 March 2022**

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:

- Critique and describe 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.

## Essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 36 hours

Due: **8 April 2022**

Weighting: **30%**

Students will prepare a properly referenced response with appropriate analysis and argument supported by relevant authoritative cases and commentary.

On successful completion you will be able to:

- Critique and describe 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.
- 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.

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

## A Time-Limited Take Home Test

Assessment Type <sup>1</sup>: Quiz/Test

Indicative Time on Task <sup>2</sup>: 4 hours

Due: **9 June 2022**

Weighting: **50%**

The hypothetical take home problem question/s will be based on the material from the whole course

On successful completion you will be able to:

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

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<sup>1</sup> If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

<sup>2</sup> Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## Delivery and Resources

**Compulsory Text** Brendan Edgeworth, Chris Rossiter, Pamela O'Connor, Andrew Godwin, Leon Terrill, *Sackville & Neave Australian Property Law* (LexisNexis, 11th edition, 2020).

**Lectures** Lectures will be recorded and uploaded weekly on iLearn.

**Tutorials** Tutorials will be held each week or fortnight (depending on your tutorial group). Attending the tutorials are beneficial for achieving the learning outcomes. Class participation shall be assessed in the tutorials.

**Online Content** Online content can be accessed on iLearn. Personal computer and Internet access are required.

# Unit Schedule

## Weekly Tutorial Students

Week	Week Commencing	Lecture Topic	Tutorial Topic
1	21-Feb	Unit Introduction & the Concept of Property	<b>NO TUTORIAL</b>
2	28-Feb	Fundamental Property Principles & Native Title	The Concept of Property
3	7-Mar	Land, Fixtures & Chattels	Fundamental Property Principles & Native Title
4	14-Mar	Common Law & Equitable Interests in Land	Land, Fixtures & Chattels
5	21-Mar	Old System Title Priorities	Common Law & Equitable Interests in Land
6	28-Mar	Torrens Title & Indefeasibility	Old System Title Priorities
7	4-Apr	Torrens Title Priorities	Torrens Title & Indefeasibility
8	25-Apr	Co-Ownership & Strata Title	Torrens Title Priorities
9	2-May	Leases	Co-Ownership & Strata Title
10	9-May	Mortgages	Leases
11	16-May	Easements	Mortgages
12	23-May	Freehold Covenants	Easements
13	30-May	<b>NO LECTURE</b>	Freehold Covenants

## Fortnightly Tutorial Students

Week	Week Commencing	Lecture Topic	Tutorial Topic
1	21-Feb	Unit Introduction & the Concept of Property	<b>NO TUTORIAL</b>
2	28-Feb	Fundamental Property Principles & Native Title	The Concept of Property Fundamental Property Principles & Native Title
3	7-Mar	Land, Fixtures & Chattels	<b>NO TUTORIAL</b>

4	14-Mar	Common Law & Equitable Interests in Land	Land, Fixtures & Chattels Common Law & Equitable Interests in Land
5	21-Mar	Old System Title Priorities	<b>NO TUTORIAL</b>
6	28-Mar	Torrens Title & Indefeasibility	Old System Title Priorities Torrens Title & Indefeasibility
7	4-Apr	Torrens Title Priorities	<b>NO TUTORIAL</b>
8	25-Apr	Co-Ownership & Strata Title	Torrens Title Priorities Co-Ownership & Strata Title
9	2-May	Leases	<b>NO TUTORIAL</b>
10	9-May	Mortgages	Leases Mortgages
11	16-May	Easements	<b>NO TUTORIAL</b>
12	23-May	Freehold Covenants	Easements Freehold Covenants
13	30-May	<b>NO LECTURE</b>	<b>NO TUTORIAL</b>

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au). 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](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

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

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/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](http://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the 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

Macquarie University offers a range of [Student Support Services](#) including:



- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)

## Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

## 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.