



LAWS8009

Property Law

Session 1, Online-scheduled-weekday 2023

Macquarie Law School

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Disclaimer

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

General Information

Unit convenor and teaching staff

Convenor, Tutor

Michael Nancarrow

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Lecturer

Cathy Sherry

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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

Students should be aware of and apply the University policy on academic honesty.

Late Assessment Submission Penalty

Unless a Special Consideration request has been submitted and approved, a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of, 0 (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.

This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings etc). Late submission of time sensitive tasks (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.

No late submissions will be accepted for the exam as it is a timed assessment. If a supplementary final exam is granted, this may include a viva voce component.

All written assessments are submitted electronically. Turnitin plagiarism detection software is used to check all written assessments. Use of Artificial Intelligence software in the writing of any written assessments is not permitted. If this is detected the student will be subject to the University's academic integrity process.

Students should carefully check that they submit the correct file for an assessment as no re-submissions will be accepted after the due date and time, including instances where students upload an incorrect file in error.

Word limits are strictly applied. Work above the word limit will not be marked. There is no +/- 10% leeway. Footnotes are to be used only for referencing. Referencing must conform to the requirements set out in the Australian Guide to Legal Citation.

Assessment Tasks

Name	Weighting	Hurdle	Due
Class Participation	20%	No	Weekly
Quiz	0%	No	27 March
Essay	30%	No	6 April 11.55pm
A Time-Limited Take Home Test	50%	No	9 June 2023 10am-1pm

Class Participation

Assessment Type ¹: Participatory task

Indicative Time on Task ²: 24 hours

Due: **Weekly**

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 ¹: Quiz/Test

Indicative Time on Task ²: 4 hours

Due: **27 March**

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 ¹: Essay

Indicative Time on Task ²: 36 hours

Due: **6 April 11.55pm**

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 ¹: Quiz/Test

Indicative Time on Task ²: 4 hours

Due: **9 June 2023 10am-1pm**

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.

¹ 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.

² 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

Please note

All readings and unit content is contained in the online textbook on iLearn. **There is no hardcopy or e-copy text that students need to purchase.** However, the following two additional texts are provided as recommended reading

- Nancarrow et al, *Australian Property Law: Principles to Practice* (Cambridge University Press, 2022) - information of purchasing a copy of this text is provided on iLearn and the Macquarie University Library will have two print copies available for loan
- Edgeworth, *Butt's Land Law* (Thomson, 7th ed, 2017) - there is a digital copy of this in Macquarie Library

Students must complete their reading each week.

Tutorials will be held each week for students to discuss the law, ask questions and practise the application of law. Participation will be assessed.

A lecture will be given each week, and recorded, for students who find oral explanations of the law useful. However, the lectures are not the primary delivery of course content. Course content is contained in the readings.

Unit Schedule

Topics covered:

1. History of Anglo-Australian land law
2. Native Title
3. Torrens system
4. Co-ownership
5. Leases
6. Mortgages
7. Easements
8. Freehold covenants
9. Personal Property

A week by week schedule is available on iLearn.

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 or if you are a Global MBA

student contact 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 Advocacy](#) provides independent advice on MQ policies, procedures, and processes

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/.

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.

Changes from Previous Offering

The content and delivery of Property Law has been updated in 2023. Students are advised not to expect the same material and delivery or to rely on material or notes from previous years. Unlike previous years, students are not required to purchase a text or casebook.