



# LAWS809

## Property Law

S1 Day 2018

*Dept of Law*

### Contents

|                                       |   |
|---------------------------------------|---|
| <u>General Information</u>            | 2 |
| <u>Learning Outcomes</u>              | 2 |
| <u>General Assessment Information</u> | 3 |
| <u>Assessment Tasks</u>               | 3 |
| <u>Delivery and Resources</u>         | 6 |
| <u>Unit Schedule</u>                  | 6 |
| <u>Policies and Procedures</u>        | 7 |
| <u>Graduate Capabilities</u>          | 9 |

#### **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

Teresa Somes

[teresa.somes@mq.edu.au](mailto:teresa.somes@mq.edu.au)

tutor

Liza Rybak

[liza.rybak@mq.edu.au](mailto:liza.rybak@mq.edu.au)

Contact via see ilearn

see ilearn

Credit points

4

Prerequisites

LAWS803

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:

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.

## 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                    |
|-----------------------------|-----------|--------|------------------------|
| <u>Quiz</u>                 | 20%       | No     | 04 April 2018          |
| <u>On line forum</u>        | 20%       | No     | 13 April 2018          |
| <u>On line forum</u>        | 20%       | No     | 25 May 2018            |
| <u>Final take home exam</u> | 40%       | No     | 12 June 2018 (5pm-9pm) |

### Quiz

Due: **04 April 2018**

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:

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

## On line forum

Due: **13 April 2018**

Weighting: **20%**

Weekly questions and/or responses (300 words max) to course content and/or tutorial questions. Details of the assessment 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.

## On line forum

Due: **25 May 2018**

Weighting: **20%**

Weekly questions and/or responses (300 words max) to course content and/or tutorial questions.

Details of the assessment 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.

## Final take home exam

Due: **12 June 2018 (5pm-9pm)**

Weighting: **40%**

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

Word limit 2000. No footnotes required.

This is a timed assessment and no late submissions will be accepted.

Further information and a marking rubric will be available on iLearn.

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.

## Delivery and Resources

### Compulsory Text

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

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

Refer to MQ timetable website for details of weekly tutorial and dates of on campus sessions

### 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

| Week    | Topic  |
|---------|--|
| Lecture |  |
| 1       | Introduction to the Unit. The concept of property: theories of property                      |
| 2       | Fundamental principles: native title   |
| 3       | Land fixtures and chattels   |
| 4       | The creation and transfer of interests in land under common law and equity: Old system title |
| 5       | Old system priorities: Introduction to Torrens title:  |

|    |  |
|----|--|
| 6  | Torrens title I; indefeasibility and exceptions; "volunteers" and indefeasibility                        |
| 7  | Torrens title priorities; the place of unregistered interests: Caveats and s43A <i>Real Property Act</i> |
| 8  | Common Ownership and Strata Title  |
| 9  | Lease and residential tenancies  |
| 10 | Mortgages and other security interests   |
| 11 | Private land use planning: easements   |
| 12 | Private land use planning: freehold covenants  |
| 13 | 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.*)

Undergraduate 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](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>).

## 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](http://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](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 - 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

- 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.

#### Assessment tasks

- Quiz
- On line forum
- On line forum
- Final take home exam

### 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

- 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.

## **Assessment tasks**

- Quiz
- On line forum
- On line forum
- Final take home exam

## **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**

- 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.

## **Assessment tasks**

- Quiz
- On line forum
- On line forum
- Final take home exam

## **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**

- Describe and analyse the historical development of Australian property law and of the major historical and theoretical principles that underlie it.
- 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.

## **Assessment tasks**

- Quiz
- On line forum
- On line forum
- Final take home exam