



LAWS216

Property Law

S1 External 2019

Macquarie Law School

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Disclaimer

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General Information

Unit convenor and teaching staff

Unit Convenor

Dr Henry Kha

henry.kha@mq.edu.au

Contact via Email

6 First Walk, Room 523

Tuesday 2 pm - 3 pm

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

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

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>Online Quiz</u>	20%	No	23 March 2019 & 24 March 2019
<u>Assignment</u>	30%	No	6 May 2019
<u>Examination (Open Book)</u>	50%	No	Examination Period

Online Quiz

Due: **23 March 2019 & 24 March 2019**

Weighting: **20%**

The online quiz is a multiple choice test on iLearn that will take place on the weekend following the conclusion of week 4 (Saturday 23 - Sunday 24 March 2019). The quiz will be based on the material covered in Lectures 1 – 4. This assessment task's purpose is to engage students with their unit early in the session and to provide an opportunity for relatively early feedback. It will consist of 20 multiple choice questions. When a student accesses the quiz they have one 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.

Assignment

Due: **6 May 2019**

Weighting: **30%**

The assignment will be a policy question on property law based on the material covered in lectures 1 - 7. The word limit is 1500 words, excluding footnotes.

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.
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- 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.
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Examination (Open Book)

Due: **Examination Period**

Weighting: **50%**

The end of semester examination in this unit will be a formal sit-down, two hour, open book examination. It will be based on material covered in the unit (more detailed information will be provided by the unit convenor). The examination will contain hypothetical problem questions. Two hours plus 10 mins reading time will be provided. The University's examination period in Session 1 is from 11 to 28 June 2019. Students must be available for examination at the time and place designated in the University examination timetable. 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 examination to be held at the Law School on a date to be advised.

On successful completion you will be able to:

- 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.

Delivery and Resources

Compulsory Text

Janice Gray, Neil Foster, Shaunnagh Dorsett, Heather Roberts, *Property Law in New South Wales* (LexisNexis, 4th ed, 2018).

Recommended Text (students are not expected to purchase this reference)

Brendan Edgeworth, Chris Rossiter, Pamela O'Connor, Andrew Goodwin, *Sackville & Neave Australian Property Law* (LexisNexis Butterworths, 10th ed, 2016).

Lectures

Lectures will be delivered live and shall be recorded.

Tutorials

Weekly tutorials will be conducted for internal students. An On Campus Session is scheduled for external students on the 17-18 April 2019 in 23 Wallys Walk, Room 103. Attending the Tutorials and the On Campus Session are beneficial, but not compulsory. All material necessary to answer the assessment questions will be covered in the Tutorials and at the On Campus Session.

Online Units

Online units can be accessed on iLearn. 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	Week Commencing	Lecture Topic	Tutorial Topic
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1	25/2	Introduction to the Unit; The Concept of Property	NO TUTORIALS
2	4/3	Fundamental principles; Native title	The Concept of Property
3	11/3	Land fixtures and chattels	Fundamental principles; Native title
4	18/3	The creation and transfer of interests in land under common law and equity: Old system title	Land fixtures and chattels
5	25/3	Old system priorities: Introduction to Torrens title	The creation and transfer of interests in land under common law and equity: Old system title
6	1/4	Torrens title I; indefeasibility and exceptions; "volunteers" and indefeasibility	Old system priorities: Introduction to Torrens title
7	8/4	Torrens title priorities; the place of unregistered interests: Caveats and s43A Real Property Act	Torrens title I; indefeasibility and exceptions; "volunteers" and indefeasibility
8	29/4	Co-ownership and strata title	Torrens title priorities; the place of unregistered interests: Caveats and s43A Real Property Act
9	6/5	Leases and residential tenancies	Co-ownership and strata title
10	13/5	Mortgages and other security interests	Leases and residential tenancies
11	20/5	Private land use planning: Easements	Mortgages and other security interests
12	27/5	Private land use planning: Freehold covenants	Private land use planning: Easements
13	3/6	Revision	Private land use planning: Freehold covenants

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](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 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

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.

Graduate Capabilities

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.
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- 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.
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Assessment tasks

- Online Quiz
- Assignment
- Examination (Open Book)

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

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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

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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 outcome

- 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

- Assignment
- Examination (Open Book)