

WK 1 – INTRO TO THE CONCEPT OF PROPERTY LAW _____ 2

WK 2 – PERSONAL PROPERTY, FIXTURES, AND LIMITS OF LAND _____ ERROR! BOOKMARK NOT DEFINED.

- (d) A wall mounted 65-inch television and dismantling it will cause substantial damage to the wall which would take a lot of effort and money to repair: Degree of annexation _____ Error! Bookmark not defined.
Purpose of annexation _____ Error! Bookmark not defined.
Likely outcome _____ Error! Bookmark not defined.

WK 3 – RELATIVITY OF TITLE, POSSESSION AND ADVERSE POSSESSION _____ ERROR! BOOKMARK NOT DEFINED.

- Arguments Supporting the Statement _____ Error! Bookmark not defined.
Arguments Against the Statement _____ Error! Bookmark not defined.

WK 4 – TENURE, ESTATES AND NATIVE TITLE _____ ERROR! BOOKMARK NOT DEFINED.

1. Governing legal principles _____ Error! Bookmark not defined.
 - (a) Recognition and extinguishment _____ Error! Bookmark not defined.
 - (b) Freehold land _____ Error! Bookmark not defined.
 - (c) Compulsory acquisition / public works _____ Error! Bookmark not defined.
 - (d) Compensation principles _____ Error! Bookmark not defined.
2. Parcel A – Freehold grant (1894) _____ Error! Bookmark not defined.
 - (a) Extinguishment _____ Error! Bookmark not defined.
 - (b) Compensation _____ Error! Bookmark not defined.
3. Parcel B – Compulsory acquisition (1992 railway) _____ Error! Bookmark not defined.
 - (a) Characterisation of the act _____ Error! Bookmark not defined.
 - (b) Extinguishment analysis _____ Error! Bookmark not defined.
 - (c) Compensation _____ Error! Bookmark not defined.
4. How compensation is calculated (principles only) _____ Error! Bookmark not defined.
 - (1) Economic loss _____ Error! Bookmark not defined.
 - (2) Interest _____ Error! Bookmark not defined.
 - (3) Non-economic (cultural) loss _____ Error! Bookmark not defined.
 - (4) Just terms requirement _____ Error! Bookmark not defined.
5. Overall advice to Coen _____ Error! Bookmark not defined.
 - Parcel A _____ Error! Bookmark not defined.
 - Parcel B _____ Error! Bookmark not defined.
6. Practical next steps _____ Error! Bookmark not defined.

WK 5 – CREATION AND TRANSFER OF PROPERTY INTERESTS AT LAW AND EQUITY __ ERROR! BOOKMARK NOT DEFINED.

1. The Right of Way (Easement) _____ **Error! Bookmark not defined.**
2. Oral Lease to Peter _____ **Error! Bookmark not defined.**
3. Effect of the Deed of Conveyance _____ **Error! Bookmark not defined.**
4. Key Legal Authority _____ **Error! Bookmark not defined.**
5. Advice to John _____ **Error! Bookmark not defined.**
- Key Parties Involved: _____ **Error! Bookmark not defined.**
- Key Issues: _____ **Error! Bookmark not defined.**
1. Kerry's Mortgage and Possession of Title Documents _____ **Error! Bookmark not defined.**
2. Andrew's Oral Lease _____ **Error! Bookmark not defined.**
3. Jack's Loan Agreement _____ **Error! Bookmark not defined.**
4. Priority of Interests _____ **Error! Bookmark not defined.**
5. Conclusion and Legal Authority _____ **Error! Bookmark not defined.**

WK 6 – THE TORRENS REGIME: INDEFEASIBILITY OF TITLE _____ ERROR! BOOKMARK NOT DEFINED.

WK 1 – Intro to the Concept of Property Law

Why do we study the Law applicable to Personal Property (Chattels) and Real Estate Property (land)?

- Legal Professional Admission Rules 2005 (NSW)
 - Regulation 95
 - Schedule 5
 - Topics should provide knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law in equity.
1. Meaning and purposes of the concept of property
 2. Possession, seisin, and title
 3. Nature and type of property interests
 4. Creation and enforceability of proprietary interests
 5. Legal and equitable remedies
 6. Statutory schemes of registration
 7. Acquisition and disposal of proprietary interests
 8. Concurrent ownership
 9. Proprietary interests in land owned by another
 10. Mortgages

The term 'property' is commonly used to described types of property, both land and chattels.

- Tangible things that exist independently of law but the law governs rights of ownership and possession in them. Including whether they can be “owned’ at all.
- Personam v Rem
- The law of property is concerned not with things but rather the rights and interests in things.
- Land and chattels are treated differently by the law because immovables and movables items are physically different to each other.

Concepts

- Customary ownership
- Communal ownership
- Collective or shared ownership of the means of production
- Private ownership
- Capitalism
- Fascism

Customary Ownership

- Things which are held by indigenous communities and controlled in accordance with customary traditions
- Under customary tenure systems, land is managed by customary groups which are linked to underlying social and spiritual beliefs

Communal Ownership

- Term used to describe those situations where rights over resources are held by a community rather than an individual
- Community Land Trusts
 - Not for profit community-controlled organisations that own, develop and manage local land for the benefit of the local community

Collective or shared ownership of the means of production

- Socialism is political system based on collective, common, or public ownership of the means of production
- Shared ownership of resources
- Central planning
- Equitable society

Private Ownership

- Ownership of things by an individual, rather than by a community or State
- Use and manage a thing as they please, to the exclusion of others
- Private property law is the framework that defines what an owner can do with their things.

Capitalism

- An economic system in which individuals own and control most of the means of production
- Capitalism relies on private property rights, markets and trust
- Unencumbered property rights
- As capitalism progresses, new types of property are created – Financial instruments

Fascism

- Fascism is a merger of the state and corporate power – the source of this quote is unclear but has been attributed to Benito Mussolini (1883 – 1945).
- Fascism is not principally opposed to private ownership
- All private and individual considerations and groups are subordinate to the will of the leader and the needs of the state.

Lay View

- The person on the street
- It is believed that the term 'property' is relatively straight- forward and definite
- That house is my property
- That car is my property
- I own this book
- This watch is my personal property

Analytical View

- *"Property is the sole and despotic dominion which one man claims and exercises over the external things of the world, to the total exclusion of the right of any other person"*
William Blackstone – Laws of England 18th century treatise on the English common law. Though does not address the complexities.
- **Possession theory of property**
 - Possession is nine- tenths of the law - Carol M. Rose (1985)
- **Rylands v Fletcher (1868)** – a right to enjoy property exists.
- Metaphor of a 'bundle' of rights or sticks
 - Right to use and enjoy
 - Right to possess
 - Right to exclude
 - Right to alienate
 - Right to sanction others to use your rights
 - Right to develop
 - Absence of term

Philosophy of Property

- Socrates and Plato – The Republic
 - City created with no private property rights
 - Women and children held and cared for in common
 - No philosophy for lower classes
 - No private property rights unless absolutely necessary
- Aristotle
 - For that which is common to the greatest number has the least care bestowed upon it
 - Private property is more highly productive and will therefore lead to progress
 - Believed that the individual is dependent on society and vice- versa
- **The Lockean perspective** – John Locke 17th century
 - Labour theory of property – Property is a natural right and acquired through the mixing of labour/ personal exertion with things of the external world
 - 'Every man has a property in his own person' – it is natural that you own the products of that life
 - 'Sweat- equity' ownership

- Conceptually fundamental to settler societies where 'waste lands' needed to be 'improved' as a political and legal imperative
- Adam Smith – exist of natural rights through liberty