

LAWS70236 Indigenous Peoples, Land & Resource Law

Credit Points:	12.50
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	2012, Parkville This subject commences in the following study period/s: September, Parkville - Taught on campus.
Time Commitment:	Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: Not available
Prerequisites:	None.
Corequisites:	None.
Recommended Background Knowledge:	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.
Non Allowed Subjects:	None.
Core Participation Requirements:	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/
Contact:	For more information, contact the Melbourne Law Masters office. Email law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au) or phone +61 3 8344 6190. Alternatively, visit our website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)
Subject Overview:	This subject focuses on Indigenous peoples' land and resource rights both in and beyond Australia. Current issues in this dynamic area of law will form the basis of the subject but will include comparative material, particularly but not limited to other common law jurisdictions, consideration of international instruments such as the Declaration on the Rights of Indigenous Peoples, conceptual material on property rights and reforms to indigenous land title in Australia and Canada. Native title law and practice will provide the context of much of the Australian material and will occupy a significant part of the subject. Particular attention will be given to three aspects of the native title process: the operation of the <i>Native Title Act 1993</i> (Cth), the effect of recent jurisprudence on the enjoyment of native title rights and recent developments in the negotiation and implementation of agreements, whether as native title or non-native title outcomes. This subject has a strong emphasis on comparative legal regimes for granting and managing indigenous land title and resources. Topics and case studies will be chosen from various jurisdictions.

	<p>Principal topics will include:</p> <ul style="list-style-type: none"> # Traditional indigenous cultural relationships, landholding systems and settler land titling systems # Indigenous land claims, land access and agreement making in Australia and other jurisdictions # A detailed examination of the structure, content and operation of legislative regimes, including the <i>Native Title Act 1993</i> (Cth) # State and territory land rights and cultural heritage legislation # Mediation, negotiation and litigation processes and the institutional relationships in native title cases in Australia and other jurisdictions # Recent court decisions in Australia and other jurisdictions # Forms of conflict resolution over resource use, e.g. the <i>Resource Management Act 1991</i> (NZ) and the <i>Native Title Act 1993</i> (Cth) # The Declaration on the Rights of Indigenous Peoples # Case studies from Australia and elsewhere (e.g. indigenous land title and climate change, indigenous title to water and the review of the <i>Foreshore and Seabed Act 2004</i> (NZ), customary land titles and individual title).
Objectives:	<p>A student who has successfully completed this subject should understand:</p> <ul style="list-style-type: none"> # The common law background to indigenous land title in Australia and comparable jurisdictions such as Canada and New Zealand # The different forms of land title including statutory titles and other titling arrangements such as reserves in Australia and comparable jurisdictions # The legal and institutional instruments and arrangements that affect indigenous land titles in Australia and other jurisdictions # The relationships between indigenous land titles and natural resources development, environmental management, cultural heritage protection and sustainability in Australia and other jurisdictions # Statutory provisions regulating indigenous land title claims, loss of title, compensation, and future dealings on indigenous land in Australia and comparable jurisdictions including procedural elements, institutional relationships, litigation issues and key provisions of the <i>Native Title Act 1993</i> (Cth) # The significance of recent court decisions concerning the existence or extinguishment of native title in Australia and indigenous titles in comparable jurisdictions # The significance of the Declaration on the Rights of Indigenous Peoples on domestic legal arrangements in Australia and comparable jurisdictions.
Assessment:	10,000 word research paper (100%) (14 January 2013) on a topic approved by the subject coordinator
Prescribed Texts:	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Visit the Melbourne Law Masters website for more information about this subject.
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Links to further information:	http://www.law.unimelb.edu.au/masters/courses-and-subjects/subject-details/sid/5198