

**14<sup>th</sup> Australasian Property Law Teachers' Conference 2017**  
***Beyond Sole Ownership***  
**Curtin Law School, Curtin University, Perth, Western Australia**  
**26 – 29 September 2017**  
**Final Conference Programme**

**Tuesday 26 September 2017 – Opening and Welcome Address**

---

Location: Curtin University St Georges Terrace (The Old Boys School) 139 St Georges Terrace, Perth

5.30 – 6.00      Registration

6.00 – 6.15      Opening and Welcome Address

Professor Paul Fairall, Foundation Dean, Curtin Law School

6.15 – 7.30 Networking

**Wednesday 27 September 2017**

---

Location: Curtin University St Georges Terrace (The Old Boys School) 139 St Georges Terrace, Perth

**9.00 – 10.30 Plenary Address**

**The Dynamics of Enduring Property Relationships**

Professor Sarah Blandy (Faculty of Law, University of Sheffield)

Professor Susan Bright (Faculty of Law, University of Oxford)

Professor Sarah Nield (Faculty of Law, University of Southampton)

Chair: Eileen Webb

**\* 10.30 Delegates will transfer to the Curtin Law School, 57 Murray Street, Perth**

**11.00 Morning Tea**

Location: Staff and Student Lounge, Curtin Law School, 57 Murray Street, Perth

**11.30 – 1.00 Parallel sessions**

Location: Curtin Law School, 57 Murray Street, Perth

<b>2.08</b> <b>Emerging Theories of Property Law</b> <b>Chair: Leon Terrill</b>	<b>Moot Court</b> <b>The Conundrum: Sharing v Exclusivity (1)</b> <b>Chair: Elizabeth Toomey</b>
<p><i>Progressive property, Place and Post Humanism</i></p> <p>Nicole Graham (University of Technology, Sydney) and Margaret Davies (Flinders University)</p>	<p><i>Reconceptualising Property Law in Apartment Blocks</i></p> <p>Franki McCarthy (University of Glasgow)</p>
<p><i>The connections of public property</i></p> <p>John Page (University of Southern Cross)</p>	<p><i>A Case Study of Deep Retrofit in Mixed Tenure Tower Blocks</i></p> <p>Susan Bright (University of Oxford)</p>
<p><i>Property Theories and Negative v Positive Land Registers</i></p> <p>Benjamin Verheye (University of Leuven)</p>	<p><i>Strata Title Property Rights: Private Governance of multi-owned properties</i></p> <p>Cathy Sherry (The University of New South Wales)</p>
<p><i>An access-based paradigm of property: from the Italian theory of the commons to the progressive property manifesto</i></p> <p>Allessandra Quarta (University of Turin) (Skype)</p>	

**1.00 – 2.00 Lunch**

Location: Staff and Student Lounge, Curtin Law School, 57 Murray Street, Perth

**2.00 – 3.30 Parallel sessions**

Location: Curtin Law School, 57 Murray Street, Perth

<b>2.08</b> <b>Contemplating the Commons</b> <b>Chair: John Page</b>	<b>Moot Court</b> <b>Enduring Property Relationships within Families</b> <b>Chair: Alison Silink</b>
<p><i>The Tragedy of (ignoring) the Semicommons</i></p> <p>Robert Cunningham (Curtin Law School)</p>	<p><i>Decisions, Decisions: Gender Norms and Intention in Establishing a Beneficial Interest in the Family Home</i></p> <p>Kate Galloway (Bond University)</p>
<p><i>Locating the Commons in Common Law</i></p> <p>Sue Farran (The University of Northumbria)</p>	<p><i>Gender and the Reform of Family Property: The promise of equality</i></p> <p>Mary-Jane Mossman (Osgoode Hall)</p>
<p><b>To share and share unlike: communal property, the commons and collective private property'</b></p> <p>Leon Terrill (The University of New South Wales)</p>	<p><i>What Role for Caveats in Protecting an Older Persons Interests in a Failed Assets for Care Arrangement?</i></p> <p>Teresa Somes (Macquarie University)</p>
<p><i>Protest, Property and the Commons (Skype)</i></p> <p>Lucy Finchett-Maddock (University of Sussex)</p>	<p><i>Norms of Sharing and Exclusivity: Adverse Possession and Co-ownership</i></p> <p>Robyn Honey (Murdoch University)</p>

3.30 – 4.00 Afternoon Tea: Location: Staff and Student Lounge, Curtin Law School, 57 Murray Street, Perth

#### 4.00 - 5.30 Parallel sessions

Location: Curtin Law School, 57 Murray Street, Perth

<b>2.08</b> <b>Regulating Private Property</b> <b>Chair: Ben France Hudson</b>	<b>Moot Court</b> <b>The Conundrum: Community v Exclusivity (2)</b> <b>Chair: Toni Collins</b>
<i>Sharing Ownership at Private Property's Edges</i> David Dana and Nadav Shoked (Northwestern University)	<i>Developer Conflicts of Interest and Governance Responsibilities in Transitioning Multi-Owned Developments</i> Nicole Johnston (Deakin University)
<i>Soaring through the gaps – Drones and the legal protection of a landowners rights to airspace.</i> Elle Farris (Curtin Law School)	<i>Learning to Live the Higher Life? Towards Better Recognising 'Community' in Multi-Owned Tower Blocks</i> Claire Mouat (UWA)
<i>The State's Duty to Protect the Property of Private Landowners against Unlawful Occupation</i> Sarah Fick (The University of Capetown) (Skype)	<i>The Governance of Strata Title and Law Reform in Queensland</i> Michael Weir (Bond University)

#### 7.30 Conference Dinner

**The Trustee Bar & Bistro**

**133 St Georges Terrace, Perth, WA 6000**

**<http://thetrustee.com.au>**

## Thursday 28 September 2017

Location: Curtin University St Georges Terrace (The Old Boys School) 139 St Georges Terrace, Perth

9.00 – 10.30 Plenary Address

### **The Psychology of Property Law**

Professor Paul Babie (Faculty of Law, University of Adelaide)

Dr Francesca da Rimini (Faculty of Law, University of Adelaide)

Chair: Robert Cunningham

**\* 10.30 Delegates will transfer to the Curtin Law School, 57 Murray Street, Perth**

### **11.00 Morning Tea**

Location: Staff and student lounge - Curtin Law School, 57 Murray Street, Perth

### **11.30 – 1.00 Parallel sessions**

Location: Curtin Law School, 57 Murray Street, Perth

<b>Enduring no more – concluding property relationships</b> <b>Chair: Lynden Griggs</b>	<b>2.08</b>	<b>Moot Court</b> <b>Responses to Maintaining Enduring Property Relationships – A Focus on Vulnerable Persons</b> <b>Chair: Nicole Johnson</b>
<i>A new metaprinciple of Land Law: Private Compulsory Acquisition</i>  Brendan Edgeworth (The University of New South Wales)		<i>A constitutional reconceptualization of servitude law in South African law</i>  Sue- Mari Viljoen (University of South Africa)

<p><b><i>Interpreting Compensation for Loss or Impairment of Native Title</i></b></p> <p>Margaret Stephenson (The University of Queensland)</p>	<p><b><i>Alice through the looking glass – Reimagining title and tenancy rights for a brave new (affordable) world.</i></b></p> <p>Michael Nancarrow (Central Queensland University)</p>
<p><b><i>Please Government: I want an offer back on my land that you took...at a fair price! Section 40 Public Works Act 1981 (NZ)</i></b></p> <p>Elizabeth Toomey (University of Canterbury)</p>	<p><b><i>Striving for Justice: Will Proposals put forward by the Australian Law Reform Commission adequately address issues faced by elderly litigants when disputing a failed assets for care arrangement?</i></b></p> <p>Teresa Somes (Macquarie University)</p>
<p><b><i>Demolition, silt, waste, pests, population shift: Canterbury coping with its damaged land</i></b></p> <p>Toni Collins (University of Canterbury)</p>	<p><b><i>Strategies to enhance housing security for WA's older renters – Lessons from the Victorian Inquiries</i></b></p> <p>Helen Hodgson, Amity James and Eileen Webb (Curtin Law School)</p>

**1.00 – 2.00 Lunch**

Location: Staff and Student Lounge, Curtin Law School, 57 Murray Street, Perth

## 2.00 – 3.30 Parallel sessions

Location: Curtin Law School, 57 Murray Street, Perth

<b>Property and Contract</b> <b>Chair: Robyn Honey</b>	<b>2.08</b> <b>Moot Court</b> <b>New perspectives on personal property law and on evolving technologies</b> <b>Chair: Rupert Johnson</b>
<p><i>Clash of the Titans Torrens Land and Contractual Interpretation</i></p> <p>Ben France Hudson (University of Otago)</p>	<p><i>The Philosophical Foundations of Personal Property Law</i></p> <p>Gerard McMeel (University of Manchester)</p>
<p><i>The True Test for Specific Performance for a contract for the transfer of land in Australia – Did the High Court in Pianta establish an inviolable rule?</i></p> <p>Ken Yin (ECU)</p>	<p><i>The Personal Property Securities Act – Is a Security Agreement Really Effective according to its Terms?</i></p> <p>Linda Widdup (Curtin Law School)</p>
<p><i>Statutory unconscionability and unfair conduct in retail tenancy leases: Panacea or placebo?</i></p> <p>Sitesh Bhojani and Eileen Webb (Curtin Law School)</p>	<p><i>Embedded Property</i></p> <p>Doug Harris (University of British Columbia) (Skype)</p>
<p><i>You'll be looked after at renewal - Commercial leasing and uncertainty about the requirement for certainty of representation</i></p> <p>Alison Silink (University of Technology, Sydney)</p>	<p><i>Moving to the electronic lodgement of instruments: marking the death quell of indefeasibility of title and the return of the paper-based chain of title in relation to forged mortgages?</i></p> <p>Penny Carruthers and Natalie Skead (UWA)</p>

## 3.30 – 4.00 Afternoon Tea

Location: Staff and Student Lounge, Curtin Law School, 57 Murray Street, Perth

#### 4.00 – 5.30 Parallel Sessions

<b>2.08</b>	<b>Moot Court</b>
<p><b>Emerging Issues in Property Law 1 – The Blockchain</b></p> <p><b>Chair: Pip Ryan (University of Technology, Sydney)</b></p>	<p><b>Emerging issues in Property Law 2 – Teaching Property Law in 2017 and beyond</b></p> <p><b>Chair: Michael Nancarrow (Central Queensland University)</b>  <b>Panel: Cathy Sherry (UNSW) and Ken Yin (ECU)</b></p>
<p><b><i>The Blockchain versus Property Law</i></b></p> <p>Pip Ryan (University of Technology, Sydney)</p> <p><b><i>Blockchain Immutability: Lessons from Torrens Indefeasibility</i></b></p> <p>Kelvin Low and Alvin See Wei Lang</p> <p><b><i>Practitioner Panel</i></b></p> <p>Discussion regarding the practical impact of Blockchain in property transactions.</p> <p>The session will also include a demonstration of the new PEXA electronic conveyancing software.</p>	<p>This (Panel) session will be chaired by Dr Michael Nancarrow (Central Queensland University). The session will discuss:</p> <ul style="list-style-type: none"> <li>• Engaging ‘Millennials’ and mature age students with 21<sup>st</sup> C property law perspectives;</li> <li>• Addressing the technological transformation of property Law and practice through professional credentialing of property lawyers for a brave new world;</li> <li>• Strategies for how property law educators can equip students with skills for the changing landscape of property law practice: Assessment and learning tools which connect principles with practice and develop real world skills for modern property lawyering.</li> </ul> <p>The session will also include a demonstration of the new PEXA electronic conveyancing software.</p>

#### Close of conference

#### 6.00 – 8.00 pm Curtin Law School Eminent Speakers Event

Delegates are welcome to attend the Curtin Law School Eminent Speakers Event – The Dynamics of Enduring Property Relationships and network with members of the Perth legal profession. The event will take place at the Curtin Law School, 57 Murray Street, Perth.



**Sharing Property: A Multidisciplinary Workshop**  
Curtin University, 139 St Georges Terrace, Perth WA 6000  
Friday, 29 September 2017, 9.30am – 4.30pm

Friday 29 September 2017

---

This all-day workshop is intended to provide space for discussing the important and contentious issues raised by contemporary multi-owned properties. There will be invited contributions from leading academics from a range of disciplines, as well as from decision-makers (tribunal and mediation) and law reformers. The themes of the workshop will be drawn from the key ideas of the Dynamics of Enduring Property Relations, presented at the Australasian Property Law Teachers Conference by Sarah Blandy, Susan Bright and Sarah Nield on the 27th of September 2017.

- Failure of law to acknowledge shared property rights and responsibilities – potential solutions through legislation and discretionary decision-making;
- Inadequate information about shared property rights and responsibilities provided to (and understanding by) purchasers and tenants;
- Issues of power and control exercised by developers, property managers, and office-holders in homeowner organisations; factors which assist or detract from the development of community amongst residents
- factors which assist or detract from the development of community amongst residents;
- recognition of changes over time, particularly the rules and norms developed by residents, and changes in the tenure mix.

There will be plenty of time programmed-in for discussions, and workshop participants are encouraged to contribute with examples from their own research and experience. It is intended that the workshop will produce recommendations for policy-makers and law reform bodies.

---

## Programme

---

**9.30 - 9.50:**

**Welcome:** Eileen Webb

**General Introduction to the workshop:** Clare Mouat / Sarah Blandy

**9.50 - 11:**

**Session 1, Chair:** Sarah Blandy

***Failure of law to acknowledge shared property rights and responsibilities - potential solutions through legislation and discretionary decision-making***

**Introduced by:** Susan Bright, Frankie McCarthy and Cathy Sherry

**Discussant:** Sean McFarlane

---

**11.00 - 11.20:**

**Coffee break**

**11.20 - 12.10:**

**Session 2, Chair:** Susan Bright

***Inadequate information about shared property rights and responsibilities provided to (and understanding by) purchasers and tenants***

**Introduced by:** Sarah Nield

**Discussant:** Nicole Johnston

---

**12.10 - 1.00:**

**Session 3, Chair:** Clare Mouat

*Issues of power and control exercised by developers, property managers, and office-holders in homeowner organisations*

**Introduced by:** Cathy Sherry

**Discussant:** Mark Atkinson

---

**1.00 - 2.00: Lunch**

**2.00 - 2.50:**

**Session 4, Chair:** Cathy Sherry

*Factors which assist or detract from the development of community amongst residents*

**Introduced by:** Clare Mouat

**Discussant:** Rebecca Leshinsky

---

**2.50 - 3.40:**

**Session 5, Chair:** Sarah Nield

*Recognition of changes over time, particularly the rules and norms developed by residents, and changes in the tenure mix*

**Introduced by:** Sarah Blandy

**Discussant:** Amanda Farmer

---

**3.40 - 4.00: Tea break**

**4.00 - 4.30: Concluding discussions**

**Chair:** Cathy Sherry

---