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19TH ANNUAL NSW PROPERTY LAW CONFERENCE

2025 Conveyancing Update

Strata Reforms: But Wait, There's More

Unfair Contract Terms and Misleading and Deceptive Conduct

Tax And Duties Update: Keeping Ahead of the Curve

Proprietary Claims Against Real Property in Litigation

Mastering the Hidden Challenges of Property Due Diligence

The Dos and Don'ts of Writs, Caveats and Priority Notices

Beyond Boundaries: A Guide to the Art of Easements

Property Transactions and GST: Key Issues in Practice

PROFESSIONAL SKILLS:

Drafting Special Conditions to Contracts for Sale of Land

PRACTICE MANAGEMENT: Preparing for AML/CTF:

A Property Lawyer's Guide to The Regime

ETHICS: When Size (and Scope) Does Matter:

Exploring the Benefits and Limitations of Retainers in Property Law

A Two-day Conference

Thursday 13 & Friday 14 March 2025

Sydney Central Hotel

Feedback from last year's conference:

- Content excellent for day-to-day practice.
- Very informative sessions with great emphasis on current issues in property law.



Your Trusted CPD Partner for 50 years

DAY 1: THURSDAY 13 MARCH 2025

MORNING THEME: REFORMS AND LEGISLATIVE UPDATES

DAY 1 CHAIR: Selwyn Black, Partner and Accredited Specialist, Business Law, Carroll & O'Dea Lawyers, Sydney, NSW

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: 2025 Conveyancing Update: Recent Developments and Reforms

It's never a dull moment in property law, and the reforms and developments continue to come in thick and fast. This session brings property lawyers up to speed, with a spotlight on the following:

- What's new – and what's coming up – in conveyancing?
- Update on the Property Stock and Business Agents Act, focusing on the amendments coming through with respect to agent obligations, licensing requirements and related guidelines
- Key takeaways from the Better Regulation Legislation Amendment (Miscellaneous) Bill 2024 and the Building, Development and Strata Legislation Amendment Regulation 2024
- Update on the review of the Design and Building Practitioners Act and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020
- Key learnings from Pafburn [2023] NSWCA 301 and High Court proceedings – duty of care and proportionate liability

Speaker: Tony Cahill, Legal Author & Commentator, Chatswood, NSW

9.55 - 10.05am Panel Comments and Questions

10.05 - 10.50am

Session 2: Unfair Contract Terms and Misleading and Deceptive Conduct: Current State of Play

Over the past few years, there has been a lot of change in the world of competition and consumer law – not least of which arising from the expansion of the UCT regime in late 2023. With the increased penalties brought in, it has never been more important for property lawyers to review their contract templates and client documentation to identify (and remedy) UCTs. To assist practitioners understand what is required to comply with the new UCT regime and keep up to date with other recent changes in competition law, including misleading and deceptive conduct, this session explores:

- The UCT regime and how they may apply specifically to property transactions
- Which businesses are now caught by the expanded scope of the regime
- The expanded powers of the courts, issues relating to enforcement, dealing with statements of opinion and representation in the building and construction industry and the impact of these changes on the arguments available in property disputes
- Key takeaways from recent cases dealing with misleading representation/deceptive conduct in a property law context
- Update on other key changes to competition and consumer law that is set to impact property

Speaker: Andrew Grima, Partner, Bartier Perry, Sydney, NSW

10.50 - 11.00am Panel Comments and Questions

11.00 - 11.25am Networking Break and Morning Tea

DAY 1: THURSDAY 13 MARCH 2025

11.25am - 12.10pm

Session 3: Strata Reforms: But Wait, There's More

With Parliament recently passing a suite of new strata laws, practitioners need to stay informed on the significant changes impacting strata management. This session will provide a comprehensive overview of the latest reforms and their practical implications:

- The key amendments from the Strata Legislation Amendment Bill 2023 and look at how they have played out in practice
- Unpacking the new Strata Managing Agents Legislation Amendment Bill 2024 – spotlight on maximum penalties and penalty infringement notice amounts; conflict of interest disclosure requirements; NSW Fair Trading's enforcement and compliance powers
- The key amendments from the Strata Schemes Legislation Amendment Bill 2024:
 - o increased disclosure obligations
 - o new statutory duty on building managers
 - o new duties for strata committee members
 - o increased accountability on developers
- The issues on the regulator's radar and practical steps practitioners should be considering to mitigate risk
- Key takeaways from recent cases of note dealing with strata

Speaker: *Elly Ashley, Partner, Holding Redlich, Sydney, NSW*

12.10 - 12.20pm Panel Comments and Questions

AFTERNOON THEME: MANAGING RISKS IN PROPERTY

12.20 - 1.05pm

Session 4: Protect and Serve: The Dos and Don'ts of Writs, Caveats and Priority Notices

Protecting an interest in land is one thing. Understanding the legal mechanisms through which this can be achieved (and when and how to utilise them) can be another thing altogether! To help property lawyers understand the dos and don'ts when dealing with writs, caveats and priority notices, this session explores:

- The role and purpose of caveats, what interests can be protected (and how), caveats with priority, ramifications of incorrect lodgement and steps for removing them
- The role and purpose of writs and priority notices - how they operate, practicalities and limitations of seeking, enforcing, removing or cancelling, the circumstances in which a priority notice is appropriate, ramifications if employed incorrectly etc
- The relationship between writs, caveats and priority notices - how they work with each other, when one can stop the other, tips and traps to avoid when seeking to enforce contractual rights
- The PPSR in property - understanding how PPSR relates to real estate and when it (and is not) appropriate
- Guidance from recent Supreme Court cases of note

Speaker: *Vikram Misra, Barrister, Sydney, NSW*

1.05 - 1.15pm Panel Comments and Questions

1.15 - 2.15pm Luncheon

DAY 1: THURSDAY 13 MARCH 2025

2.15 - 3.00pm

Session 5: More than Meets the Eye: Proprietary Claims Against Real Property in Litigation

Dealing with proprietary claims against property is hardly new, or indeed even novel, in property law practice. However, it can be easy to gloss over the finer details of the law for matters that appear to, on the face of it, to be run of the mill. But there is often more than meets the eye when it comes to such matters - even if that only becomes apparent as you are preparing your arguments for trial. This is certainly true when it comes to assessing proprietary claims against property in a litigation context. Using a detailed case study, this session explores proprietary claims against property and explore the answers to questions to frequently (and not so frequently!) asked questions including:

- When would it be appropriate to make a proprietary claim against real property in litigation?
- If you are going to make a claim, what is the nature or character of the claim?
- What interim orders should you seek?
- How should you frame your final relief sought?
- How does the type of remedy sought impact on whether you go to the Federal Court (bankruptcy)?
- When might leave be required (leave is dependent on whether the claim is proprietary in nature)?

Speaker: Sydney Jacobs, Barrister and Mediator, Sydney, NSW

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

Session 6: Mastering the Hidden Challenges of Property Due Diligence

Due diligence in property transactions is often seen as routine, but beneath the surface, it can reveal a host of unexpected complexities. Overlooking these hidden challenges can lead to significant legal and financial consequences. This session is designed to equip practitioners with the knowledge to navigate the intricate and sometimes obscure aspects of due diligence, with a focus on aboriginal heritage issues and water rights. It covers:

- Aboriginal heritage:
 - understanding the scope and significance of Aboriginal heritage interests
 - techniques for identifying Aboriginal heritage interests on the land
 - best practices for managing risks when heritage items are identified, including legal protections and mitigation strategies
- Water rights:
 - conducting thorough due diligence on water rights, an often-overlooked but critical aspect of land transactions
 - addressing contracts and legal agreements that run parallel with water rights, ensuring all interests are properly secured

Speaker: Tony Cahill, Legal Author & Commentator, Chatswood, NSW

3.55 - 4.05pm Panel Comments and Questions

DAY 2: FRIDAY 14 MARCH 2025

DAY 2 CHAIR: *Carolyn Chudleigh, Partner, HFW Australia, Sydney, NSW*

MORNING THEME: ENSURING COMPLIANCE IN PROPERTY TRANSACTIONS

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 7: Tax And Duties Update: Keeping Ahead of the Curve

Following the last State budget, significant amendments were made affecting the tax and duties arising from property law transactions. To help practitioners get across the changes, this session shall provide a general update on tax and duties affecting property transactions and discuss practical issues relating specifically to:

- Stamp duty - when is it payable, understanding the different triggers, the impact of duties on transfers
- Land tax - when is it charged at the higher amount and discussion of exemption for rural land, meaning of 'dominant purpose' from the High Court's decision in *Godolphin Australia Pty Ltd v Chief Commissioner of State Revenue* 2024 HCA 20
- Foreign purchasers - changes to thresholds and what new matters are now captured by the landholder duty

Speaker: Andrew Rider, Barrister, Level 22 Chambers, Sydney, NSW

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 8: Beyond Boundaries: A Guide to the Art of Easements

Easements are often the subject of demand by clients, whether it be a client seeking one or a client seeking advice when they are adversely affected by one. Regardless of which side you are acting for, it is important to consider all the relevant aspects of the law when it comes to easements before proceedings are commenced. This session explores:

- The types of easements and their variation/ extinguishment
- Issues arising from more complicated types of easements, including compulsory easements, those limited in stratum, cross-easements, water flowing over land/drainage, over a track in use, burial grounds, community schemes, Crown land
- Guidance on making an application for an easement on Crown Land - what extra steps do you have to take when dealing with Crown reserve land?
- The impact of easements on property valuation, section 88K instruments and takeaway lessons from recent cases in the Land and Environment Court
- The practicalities of giving advice about easements and related interests - what level and detail of investigation to be able to give legal advice about whether a right of way can be extinguished or maintained

Speaker: Christopher Conolly, Partner ffl Accredited Specialist Property Law, HWL Ebsworth, Sydney, NSW

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2: FRIDAY 14 MARCH 2025

11.15 - 12.00pm

Session 9: Property Transactions and GST: Key Issues in Practice

While property lawyers are not tax advisers, being comfortable with the fundamentals of GST allows property lawyers to provide comprehensive guidance to clients, enabling them to navigate the complexities of taxation implications when buying, selling, or transferring real property. This practical webinar explores the trickier aspects of GST as it relates to real estate, including:

- Division 129 adjustments, the tax and GST calculations that occur when property developers need to rent out new developments;
- GST exemptions - when they may be options, how they are assessed, common mistakes made in property dealings etc
- The impact of changes in land use from a GST perspective and how best to deal with proposed or pending changes to land
- Examples of when things have gone wrong from a GST perspective in property transactions;
- The extent of the damage and consequences for the professionals involved; and
- What could have been done to minimise the risk.

Speaker: Matthew Cridland, Partner, K&L Gates, Sydney, NSW

12.00 - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

AFTERNOON THEME: 3 COMPULSORY CPD TOPICS

1.10 - 2.00pm

Session 10: Professional skills

But Wait ... There's More! Drafting Special Conditions to Contracts for Sale of Land

Inevitably all contracts for sale of land will include several special conditions of contract. Special conditions must be drafted as precisely as possible to avoid future disputes. This session will walk participants through the effective drafting of special conditions, including:

- The role of special conditions to contract
- Common areas addressed by special conditions
- Do you really need a special condition?
- Avoiding conflict between the standard contract for sale and special conditions
- Drafting amendments to special conditions: don't reinvent the wheel

Speaker: Dannelle Howley, Partner, Squire Patton Boggs, Sydney, NSW

2.00 - 2.10pm Panel Comments and Questions

DAY 2: FRIDAY 14 MARCH 2025

2.10 - 3.00pm

Session 11: Practice management & business skills

Preparing for AML/CTF: A Property Lawyer's Guide to the Regime

Set to be the biggest practice management reform to impact the legal profession in decades, the tranche 2 AML / CTF reforms are nearly upon us. With the new AML/CTF regime will come significant additional requirements for many professionals – particularly those working in identified high risk areas like property. To help property lawyers better understand what the AML/CTF regime may look like and what changes need to be made to prepare for compliance, this session explores:

- The current status of the proposed AML/CTF regime and the new requirements to be imposed on property law professionals
- The practical issues firms are anticipated to experience to comply with the new regime, including measures to verify source of funds from clients, interaction of new duties with existing duties to clients, confidentiality issues
- How comparative jurisdictions have managed AML/CTF implementation issues and practical compliance lessons to be drawn

Speaker: Amy Bell, Chair of the AML taskforce in the UK and Director, Teal Compliance, UK

3.00 – 3.10pm Panel Comments and Questions

3.10 – 3.30pm Networking Break and Afternoon Tea

3.30 – 4.20pm

Session 12: Ethics

When Size (and Scope) Does Matter: Exploring the Benefits and Limitations of Retainers in Property Law

In a property conveyance, property lawyers or conveyancers are generally engaged to provide legal advice and services to implement the relevant property transfer. But what if during the course of those services, it becomes apparent that further advice is needed? If a lawyer reads a trust document, is there an expectation or requirement that they will identify whether (and how) the trust needs to be varied in order to complete the transaction? Or can the lawyer rely on the scope of their retainer to limit their advice and assistance to identified areas? This session shall explore these questions and look at:

- How the courts have interpreted a lawyer's ethical duties in light of the retainer
- The circumstances in which a court may find that a lawyer owed a client an implied ethical duty, including discussion about the existence and scope of a penumbral duty within a property law context
- Practical steps lawyers can take to discharge their ethical obligations, including when and how to refer, tips for ensuring practitioners do not go beyond their skills, knowledge and expertise while identifying relevant issues

Speaker: Anneka Ferguson, Solicitor and Senior Lecturer UNSW PLT, Walker Gibbs & King, Cooma, NSW

4.20 - 4.30pm Panel Comments and Questions

4.30pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunch on both conference days are included for delegates attending the face to face event.

Conference Papers

TEN will not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

CPD

NSW Lawyers: 10 CPD units/points

(7 x substantive law, 1 x ethics, 1 x professional skills and 1 x practice management & business skills).

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

The Conference Venue

Sydney Central Hotel

169-179 Thomas Street, Haymarket

Phone: (02) 9281 6888

Web: <https://www.discoverasr.com/en/others/australia/sydney-central-hotel>

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves/summer tops are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

TERMS AND CONDITIONS

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 - b. "you" means the person who has registered to attend or the person or persons who attend[s] the conference (if different from the person registered)
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GPO Box 61, Melbourne, Victoria 3001
Phone (03) 8601 7700 Enquiries Jenna Pickrell (03) 8601 7729
Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **19th Annual NSW Property Law Conference** – a 2-day conference to be held in Sydney on Thursday 13 & Friday 14 March 2025

Delegates have 2 options for attending the conference – both cost the same.

- Registration type 1:** Attend in person [code: SPLMAR25]
- Registration type 2:** Attend online [code: SPLMAR25LO]
- Early Bird Registration** – for registrations made on or before 19 December 2024 – **\$1980** (\$1800 + \$180 GST)
- Discount Registration** – for registrations made on or before 21 February 2025 – **\$2145** (\$1950 + \$195 GST)
- Full Price Registration** – **\$2288** (\$2080 + \$208 GST)

Multiple registration discount? Discounts are available for multiple registrations: The more you send, the greater the discount. You can access the discount by registering using the “multiple registrations” option online, or contact our Conference Manager, Jenna Pickrell, to organise your registrations. jenna@tved.net.au or phone (03) 8601 7729.

- 3 registrations – **5% discount** for each delegate
- If you register 4 people at the same time you are entitled to a **10% discount** for each delegate
- If you register 5 people or more people at the same time you are entitled to a **15% discount** for each delegate.

One-day only? We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Jenna (details above).

Conference Papers

The papers from this conference will be available in electronic format approximately 1 week after the conference has been held. You can pre-order the papers now online via our website at www.tved.net.au. The papers are \$198 (\$180 + \$18 GST) (code: E/PSPLMAR25).

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