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(introductory note, plenary address and articles included in this part are linked to the LexisNexis platform)

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[Property rights and climate change](#)

— *Nicola Pain* 296

Legal responses in Australia to climate change impacts at local, state and national government levels affect property rights in land in many ways. One example is planning laws which regulate the use of land as a means of adapting to these impacts. Planning approaches to increased coastal hazards, more severe and frequent bushfires and more flooding in New South Wales are considered. Private rights in land are also being utilised to mitigate climate change impacts under a national carbon credit scheme. Further emerging areas of legal policy in the context of property rights and climate change include disaster law and the incorporation of principles of stewardship.

Articles

[Assessment, skills and outcomes: The changing approaches of Australian property law teachers](#)

— *Penny Carruthers, Kate Galloway and Natalie Skead* 311

This is the second of two articles reporting on a longitudinal study of property law teaching in Australia. The focus of this article is the changing approaches of property law teachers to assessment, skills and outcomes. As a general observation, property law teachers appear to want to move beyond the traditionally doctrinal focus of the curriculum. They recognise the importance of ensuring students are equipped with the practical skills needed to work in a profession with a strong transactional focus. Several respondents also expressed a wish to adapt the skills and learning outcomes in their property law units so as to embed a more critical socio-legal approach to the role of property law in shaping an increasingly uncertain future. The ideas presented in this article for how this might be achieved arguably extend beyond property law to legal education more broadly, thus presenting frameworks for adapting skills and learning outcomes that are truly future-oriented.

[Bauxite and boundaries: 50 years since *Milirrpum v Nabalco Pty Ltd* \(1971\) 17 FLR 141](#)

— *Nicole Graham and David A Pittavino* 335

This year 2021 marks the 50th anniversary of Blackburn J's decision in *Milirrpum v Nabalco Pty Ltd*

(1971) 17 FLR 141. Though it is imprecisely remembered as the first time that the fiction of terra nullius was contested by Indigenous Australians in an Anglo-Australian Court, the case stands as an early attempt to reconcile claims of Indigenous sovereignty and land rights with the colonists' common law of property rights. A half-century later, the authors reflect on the importance of the case. Beyond discrete questions of common law doctrine, the case demonstrates the fundamental tension between the dominant dephysicalised model of Anglo-Australian property law and The Rom — the Yolŋu model of property law that connects human and non-human life in and through Country. Valuable lessons can be learned from a comparative analysis of the two models. The enduring authority, intellectual integrity and practical success of The Rom hinge on its capacity to prescribe adequately and regulate viable human land use and ownership within locally specific conditions and limits over the long-term. It is time to take up the opportunity to recognise the Yolŋu model of property not simply as disruptive, but as educative in the task of adapting Anglo-Australian property law to the land itself.

What role for caveats in protecting an older persons interests under a failed family accommodation arrangement?

— *Teresa Somes and Eileen Webb*

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This article considers law and policy considerations that determine when (or if) a caveat can be lodged by a parent in the event of a failed family accommodation arrangement (FAA) involving real property. Central to the discussion is whether the grounds for relief argued by the parent give rise to a proprietary interest, or a mere equity. This distinction is critical in determining whether the parent can lodge a caveat to prevent dealings affecting a disputed property. The article examines the legal position of the parent and argues that, in light of the inherent legal vulnerabilities affecting such agreements between parents and their adult children, the law must be clarified to ensure that the parent can protect any potential interest they may have in a disputed property.

Fraud and the in personam claim — The Torrens system tested in New Zealand

— *Elizabeth Toomey*

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This article considers the new definition of land transfer fraud as it appears in s 6 of the Land Transfer Act 2017 (NZ). It reviews four recent New Zealand decisions, three of which were decided under the former Land Transfer Act 1952 (NZ), and the fourth under the Land Transfer Act 2017. The definition was recommended by the Law Commission which advocated a limited legislative definition which adopted principles that had been identified in the leading cases while allowing scope for judicial development of the concept of fraud.

The article also notes the recognition in s 51 of the Land Transfer Act 2017 ('Title by registration') that nothing in that section affects the in personam jurisdiction of the court. As is often the case, two of the four decisions also discuss a claim in personam. The courts provide a meaningful analysis of equitable estoppel and unconscionability.