



TRAINING SERIES

# Conveyancing and Property Law Toolkit

Reduce Contractual Risk in Property transactions when time is of the essence; Apply exceptional drafting tools and techniques in property documents

**Session 1**  
Brisbane - 21 October  
Sydney - 28 October

**Session 2**  
Sydney - 10 November  
Brisbane - 11 November  
Melbourne - 12 November  
Perth - 17 November

**Session 3**  
Sydney - 1 December  
Brisbane - 2 December

**Session 4**  
Sydney - 1 December  
Brisbane - 2 December  
Melbourne - 3 December  
Perth - 9 December



Finally an easy to understand practical tax session!

Claim 1 CPD point for each hour of attendance

## You will learn to:

- Effectively manage challenges when **failure to complete** arises
- Examine **clauses on timing & notices** to complete
- Discover **how to effectively draft enforcing obligations in leases by identifying essential terms and recent High Court Authority**
- Develop practical solutions when dealing with **split deposits, easements, and requisition in title, forged mortgages and indefeasibility**
- Define effective techniques when **drafting caveats**
- Assess **consent, obligations and refusals** in assignments and subleases
- Examine **practical implications** of recent case law
- **Easy to understand** tax session when dealing with Property

## Expert facilitators include:

**Roland Taylor**, Partner  
Statewide Conveyancing

**Gary Newton**, Partner  
Colin Biggers & Paisley

**Dr Peter Butt**, formerly Professor of Law  
University of Sydney

**Jenny Daborn**, Taxation Expert/ Director  
Practising Tax

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# Conveyancing and Property Law T

## Intensive skills and practical training sessio

### Session 1: Property Transactions Training Workshop

#### Time Of The Essence and Failure To Complete - Heading Off, Anticipating and Responding

##### Session outline

The aim of the session is to equip practitioners with an understanding and the ability to apply knowledge, skills and behaviours required to successfully advise clients on critical timing issues associated with property transactions.

##### Key benefits

At the end of the sessions participants will be able to identify key issues and trends, draft outstanding client communication and apply the knowledge to provide exceptional advice.

##### Who should attend

This session is ideal for all professionals in a Conveyancing and Property practice.

21 October - Brisbane

28 October - Sydney

8.45am **Registration**

9.00am-5.00pm

(breaks and lunch included)

Key learning outcomes	SYDNEY session content	BRISBANE session content
	<b>Including adequate clauses on timing &amp; notices to complete</b>	<b>When does time cease to be of the essence</b>
Identifying your available options to successfully advise the innocent party	<ul style="list-style-type: none"> <li>Termination for breach of time stipulations</li> <li>Time of the essence and classification of contractual terms</li> </ul>	<ul style="list-style-type: none"> <li>Termination for breach of time stipulations                             <ul style="list-style-type: none"> <li>Time of the essence and classification of contractual terms</li> <li>Time for performance: strict substantial compliance</li> </ul> </li> </ul>
Analysing and discussing what client can and can't do	<ul style="list-style-type: none"> <li>Time for performance: strict substantial compliance</li> <li>The construction of time stipulations and essentiality of time</li> </ul>	<ul style="list-style-type: none"> <li>When does time cease to be of the essence</li> </ul>
Drafting successful letters to protect clients in a situation	<ul style="list-style-type: none"> <li>Making time essential by express agreement</li> <li>Update on recent cases</li> </ul>	<ul style="list-style-type: none"> <li>Effective drafting to exceed client expectations</li> <li>Can you reserve your right to terminate</li> </ul>
	<b>The construction and operative effect of a notice to complete</b>	<b>When does the right to terminate arise</b>
Examine common circumstances that arise which cause breach of contract	<ul style="list-style-type: none"> <li>Brief introduction to the function of a notice at law and in equity</li> <li>Establishing repudiation and time allowed in the notice</li> </ul>	<ul style="list-style-type: none"> <li>Identify and discuss essential and non-essential clauses</li> <li>Review Estoppel and waiver of breaches</li> <li>Examine mutual breaches</li> </ul>
Drafting exceptional and effective notices to complete	<ul style="list-style-type: none"> <li>Drafting a notice to complete                             <ul style="list-style-type: none"> <li>Time for completion and</li> <li>Establishing breach of intermediate terms</li> </ul> </li> <li>Update on recent cases</li> </ul>	<ul style="list-style-type: none"> <li>Drafting a notice to complete</li> </ul>
	<b>The use of rescission and termination</b>	<b>The use of rescission and termination</b>
Identify common circumstances that arise which cause breach of contract	<ul style="list-style-type: none"> <li>Termination for anticipatory breach</li> <li>Effecting rescission for non-fulfilment of contingent conditions</li> </ul>	<ul style="list-style-type: none"> <li>Termination for anticipatory breach</li> <li>Effecting rescission for non-fulfilment of contingent conditions</li> </ul>
Calculating damages where the buyer is breaching contract and Learn to give advise of damages	<ul style="list-style-type: none"> <li>Claiming for damages and considering the benefits of different approaches                             <ul style="list-style-type: none"> <li>How to approach, calculate, advise and act on loss by reason of breach</li> <li>Deciding on specific performance, damages and compensation based on the suitability and desirability of claims in different circumstances</li> </ul> </li> <li>Relief against forfeiture, either the loss of the contract or the loss of the deposit                             <ul style="list-style-type: none"> <li>Update on recent cases</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Claiming for damages and considering the benefits of different approaches                             <ul style="list-style-type: none"> <li>How to approach, calculate, advise and act on loss by reason of breach</li> <li>Deciding on specific performance, damages and compensation based on the suitability and desirability of claims in different circumstances</li> </ul> </li> </ul>

##### Facilitated by:

Sydney: **Gary Newton**, Partner, **Colin Biggers & Paisley**

Brisbane: **Roland Taylor**, Partner, **Statewide Conveyancing**

### Session 2: Drafting effective property documents: a workshop of principles and case-studies

#### Session outline

This workshop focuses on key techniques of modern legal drafting in the area of property law. It includes practical examples of how to apply the techniques in the day-to day-legal practice.

The workshop includes case studies of recent court decisions in key areas of property practice. The case studies will help illustrate ways in which careful drafting can help deal with issues posed by the decisions.

#### Key benefits

At the end of the session you will be able to identify key current issues in property practice and be able to draft effective documents to deal with them.

#### Who should attend

This session is ideal for all professionals in property practice.

10 November - Sydney  
 11 November - Brisbane  
 12 November - Melbourne  
 17 November - Perth  
 8.45am **Registration**  
 9.00am-4.30pm  
*(breaks and lunch included)*

Key learning outcomes	Session content
Problems with traditional drafting styles. Is plain language “safe”?	<ul style="list-style-type: none"> <li>Recent research and case studies on the use of plain language in law</li> </ul>
Organising documents: an overview	<ul style="list-style-type: none"> <li>The aim of the document</li> <li>The form of the document - deed or agreement?</li> <li>Planning the document - finding a logical structure</li> <li>Dealing with relevant contingencies</li> <li>Using language consistently</li> <li>Avoiding ambiguity</li> <li>Punctuation</li> </ul>
Particular drafting issues	<ul style="list-style-type: none"> <li>Headings</li> <li>Cross-references</li> <li>Recitals</li> <li>Definitions</li> <li>Provisos</li> <li>Tables, diagrams, formulas, flow charts</li> <li>Notes and examples</li> <li>Simplified outlines</li> <li>Technical rules of construction</li> <li>Plain language – some basic reminders</li> </ul>
Distinguishing fixtures and chattels	<ul style="list-style-type: none"> <li>Recent cases on how to determine whether something is a fixture</li> <li>Drafting to overcome problems</li> </ul>
Repairing obligations in leases	<ul style="list-style-type: none"> <li>What is “repair”?</li> <li>How to enforce obligations</li> <li>Issues from Tabcorp (FCAFC 2008)</li> <li>Drafting for effectiveness</li> </ul>
Identifying essential terms and drafting for effectiveness	<ul style="list-style-type: none"> <li>What makes a term “essential”?</li> <li>Drafting for effectiveness</li> <li>Issues from Gumland (High Court 2008)</li> </ul>
Assessing assignments and subleases	<ul style="list-style-type: none"> <li>When is consent necessary?</li> <li>When is refusal “reasonable”?</li> <li>Running of obligations</li> <li>Release from obligations</li> <li>Drafting for effectiveness</li> </ul>
Exploring split deposits	<ul style="list-style-type: none"> <li>Can you split a deposit (5% now, 5% later)?</li> <li>Drafting to avoid penalties</li> </ul>
Defining easements and drafting for effectiveness	<ul style="list-style-type: none"> <li>Recent cases on interpreting easements</li> <li>Drafting for effectiveness</li> </ul>
Analysis of requisitions on title	<ul style="list-style-type: none"> <li>What can be asked?</li> <li>Drafting for effectiveness</li> </ul>
Defining forged mortgages and indefeasibility and drafting for effectiveness	<ul style="list-style-type: none"> <li>Recent cases on forged “all moneys” mortgages</li> <li>Drafting for effectiveness</li> </ul>
Identifying and drafting exceptional Caveats	<ul style="list-style-type: none"> <li>What is a caveatable interest?</li> <li>Priorities and failure to lodge</li> <li>Drafting effective caveats</li> </ul>

#### Facilitated by:

**Dr Peter Butt**, formerly Professor of Law, **University of Sydney**

## Session 3: Tax implications when dealing with property

### Session outline

This training session is designed to provide an insight into how our income tax, GST and superannuation legislation impacts property transactions.

### Key benefits

By the completion of this session, participants will be able to identify the essential principles that require consideration in order to advise clients of the implications of buying, developing and/or selling property.

### Who should attend

Lawyers who wish to gain an understanding of tax issues that may affect their clients' property transactions.

1 December - Sydney  
2 December - Brisbane  
8.45am **Registration**  
9.00am-12.30pm  
(break included)

Key learning outcomes	Session content	
Income tax issues	<ul style="list-style-type: none"> <li>• What type of taxpayer are you dealing with?                             <ul style="list-style-type: none"> <li>- A taxpayer in the business of property development</li> <li>- A taxpayer engaging in a one-off profit-making transaction</li> <li>- A taxpayer realising the value of an asset</li> </ul> </li> </ul>	
GST issues	<ul style="list-style-type: none"> <li>• Is the taxpayer making a taxable supply?                             <ul style="list-style-type: none"> <li>- Is the supply in the course or furtherance of an enterprise that the taxpayer carries on?</li> <li>- Is the supply input taxed?</li> </ul> </li> <li>• Can the margin scheme be utilised?                             <ul style="list-style-type: none"> <li>- Is the supplier making a supply of real property?</li> <li>- Was an input tax credit available to the taxpayer on original acquisition?</li> <li>- Have the taxpayer and the purchaser agreed in writing to utilise the margin scheme?</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Adjustments for input tax credits                             <ul style="list-style-type: none"> <li>- What is the intended application of the acquisition?</li> <li>- What is the actual application of the acquisition?</li> <li>- Is an adjustment necessary?</li> <li>- If yes, when is the adjustment required to be made?</li> </ul> </li> </ul>
Income tax and GST case studies	<ul style="list-style-type: none"> <li>• <b>Case study – Property developer</b> <ul style="list-style-type: none"> <li>- Is the land trading stock</li> <li>- How is land as trading stock treated for income tax and GST purposes?</li> <li>- What are the income tax and GST consequences of land that a taxpayer already owns being transferred into trading stock?</li> <li>- Income tax and GST consequences of a taxpayer ceasing to hold land as trading stock but continuing to own the land?</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Case study – One-off property transaction</b> <ul style="list-style-type: none"> <li>- What are the income tax and GST consequences of venturing land into a profit-making transaction?</li> <li>- What are the income tax and GST consequences of merely realising land as a capital asset?</li> </ul> </li> </ul>
Small business CGT concessions	<ul style="list-style-type: none"> <li>• Basic conditions                             <ul style="list-style-type: none"> <li>- Is real property considered to be an active asset?</li> <li>- How does a taxpayer determine which assets are to be included in the net asset value test?</li> </ul> </li> <li>• 15 year exemption                             <ul style="list-style-type: none"> <li>- Has the real property been held for the required minimum period of time?</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Small business 50% reduction                             <ul style="list-style-type: none"> <li>- What is the impact of the 50% reduction on the disposal of real property?</li> </ul> </li> <li>• Retirement exemption                             <ul style="list-style-type: none"> <li>- How can the retirement exemption be utilised on disposal of real property?</li> </ul> </li> <li>• Small-business roll-over                             <ul style="list-style-type: none"> <li>- Can an asset other than real property be acquired as a replacement asset?</li> </ul> </li> </ul>
Main residence exemption	<ul style="list-style-type: none"> <li>• What is the CGT main residence exemption?</li> <li>• When can real property be treated as a main residence for income tax purposes                             <ul style="list-style-type: none"> <li>- Can a shed containing minimal furniture and having minimal services connected, be a main residence?</li> <li>- Is the main residence exemption available where the taxpayer does not occupy the property because it is being rented?</li> </ul> </li> </ul>	
Superannuation fund issues	<ul style="list-style-type: none"> <li>• What is business real property and why does it matter?</li> <li>• Can a self managed superannuation fund (SMSF) borrow to acquire real property?</li> </ul>	<ul style="list-style-type: none"> <li>• Can a SMSF acquire real property from a related party?</li> <li>• Can a SMSF accept real property as a contribution?</li> </ul>

### Facilitated by:

**Jenny Daborn**, Taxation Expert/ Director, *Practising Tax*

## Session 4: Drafting effective property documents – Masterclass

### Session outline

This Masterclass will discuss leading issues in property law, highlighted by important recent appellate decisions. The main focus of the Masterclass will be to explore effective ways to deal with the decisions in day-to-day legal practice.

### Key benefits

At the end of the session you will be able to identify key current issues in property practice and be able to draft effective documents to deal with them.

### Who should attend

This session is ideal for all professionals with some existing experience in property practice.

1 December - Sydney  
2 December - Brisbane  
3 December - Melbourne  
9 December - Perth

Sydney, Brisbane

1.45am **Registration**  
2.00pm-5.00pm (break included)

Melbourne, Perth

8.45am **Registration**  
9.00am-12.30pm (break included)

Key learning outcomes	Session content
Repairing obligations in leases	<ul style="list-style-type: none"> <li>What is “repair”? Difficulties in enforcing repairing obligations</li> <li>Issues from <i>Tabcorp</i> (FCAFC 2008)</li> </ul>
Essential terms	<ul style="list-style-type: none"> <li>What makes a term “essential”?</li> <li>Particular issues in leases and contracts for sale</li> <li>Issues from <i>Gumland</i> (High Court 2008)</li> </ul>
Easements	<ul style="list-style-type: none"> <li>Extent of rights under easements, recent cases on easements and particular issues with Torrens title</li> </ul>
Split deposits	<ul style="list-style-type: none"> <li>Can you split a deposit (5% now, 5% later)?</li> <li>The recent case law: Is there a way around the case law?</li> </ul>
Forged mortgages and indefeasibility	<ul style="list-style-type: none"> <li>Basic indefeasibility principles regarding mortgages</li> <li>Recent cases on forged “all moneys” mortgages</li> <li>Is there a way around the case law (for lenders)?</li> </ul>
Caveats	<ul style="list-style-type: none"> <li>What is a caveatable interest? When should a caveat be lodged? Priorities and failure to lodge</li> </ul>

### Facilitated by:

**Dr Peter Butt**, formerly Professor of Law, **University of Sydney**

## Conveyancing and Property Law Toolkit Expert Facilitators:

**Roland Taylor**, *Partner and Manager, Statewide Conveyancing, Solicitor of the Supreme Court of Queensland and Solicitor of the High Court of Australia.*

Roland has been admitted as a solicitor since 1993 and is responsible for the management of Statewide Conveyancing.

Roland has seventeen years experience in conveyancing and commercial litigation. He has acted for clients in commercial disputes in the Supreme, District and Federal courts. Roland has managed Statewide Conveyancing since 2000 and now exclusively practises in conveyancing. He conducts regular training for the junior professional staff in both the Mackay and Brisbane offices of Statewide as well as conducting regular training sessions for real estate agents in the Mackay and Brisbane districts. Roland has presented numerous Papers at professional seminars for solicitors on conveyancing.

**Gary Newton**, *Partner, Property and Development Group, Colin Biggers & Paisley* has been practicing in the property area for over 20 years providing a wide range of property related advice to business, government and individuals.

Gary is currently a member of several committees including the Law Society Property Law Review Committee and is the current Chairman of the Australian Law Council NSW Committee of Australia Property Law Group. Gary has authored numerous articles and is an experienced speaker at conferences and seminars on topics related to property law.

Gary is the co-author and co-editor of the Lexis Nexis NSW Conveyancing Service as well as an Honorary Secretary of NSW Rostrum and on the organising Committee for the “Voice of Youth” for NSW High School public speaking.

Gary’s particular expertise is in conveyancing, commercial and retail leasing and real estate subdivisions and developments including strata and community titling.

**Peter Butt**, formally Professor of Law at the **University of Sydney.**

Peter specializes in Land Law and in Legal Drafting. He has published a number of books on both topics. His book on Land Law is now in its 5th edition. He is also a co-contributor to Woodman and Nettle’s Torrens System in NSW. He writes the regular “Property and Conveyancing” column in the Australian Law Journal.

In the area of legal drafting, Peter is the co-author of *Modern Legal Drafting* (Cambridge Uni Press, 2nd ed 2006), and is also the co-editor of *Piesse’s Elements of Drafting* (10th ed, 2004). He is a co-editor of *Butterworth’s Australian Legal Dictionary*.

Peter is a consultant to Mallesons Stephen Jaques in legal drafting and property law. He is a past president of Clarity (an international organization aimed at improving legal writing). He has lectured on topics related to land law and legal drafting—particularly plain language legal drafting—in many countries around the world, including the UK, USA, Canada, Malta, Ireland, and Hong Kong.

**Jenny Daborn**, *Taxation Expert/ Director, Practising Tax*

Jenny’s 11 years at Webb Martin (including three as a director) provides Practising Tax with the experience necessary to deal with the challenges of running a tax training business. Jenny’s excellent understanding of the tax training needs of legal and accounting professionals, as well as her warm and down to earth personality, make Practising Tax well placed to provide its clients with an unmatched level of client service.

Practising Tax is a specialist tax information provider. Practising Tax is a team of passionate tax professionals with diverse experience ranging from ‘Big 4’ accounting firms, top tier law firms, private practice, ATO and tax education providers.

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Mariana Olivieri, Learning & Development Consultant, LexisNexis Professional Development  
Ph: 02 9422 2217 • Email: [Mariana.Olivieri@lexisnexis.com.au](mailto:Mariana.Olivieri@lexisnexis.com.au)



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# Priority registration form Conveyancing and Property Law Toolkit

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to register**

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**Please complete sections A, B, C, D, E**

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## A Delegate 1 details

Mr/Ms/Dr: \_\_\_\_\_  
First name Last name

Position: \_\_\_\_\_

Organisation: \_\_\_\_\_

Postal address: \_\_\_\_\_

Suburb Postcode State

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email (required\*\*): \_\_\_\_\_

## Delegate 2 details

Mr/Ms/Dr: \_\_\_\_\_  
First name Last name

Position: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email (required\*\*): \_\_\_\_\_

## Delegate 3 details

Mr/Ms/Dr: \_\_\_\_\_  
First name Last name

Position: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email (required\*\*): \_\_\_\_\_

\*\* to send toolkit confirmation

**3rd Delegate FREE!**

## B Venue & date selection

<b>SYDNEY</b> <input type="checkbox"/> 28 October 2008 <input type="checkbox"/> 10 November 2008 <input type="checkbox"/> 1 December 2008	<input type="checkbox"/> The Portside Centre Level 5, Symantec House 207 Kent Street Sydney, NSW 2000 Tel: (02) 9251 9559
<b>BRISBANE</b> <input type="checkbox"/> 21 October 2008 <input type="checkbox"/> 11 November 2008 <input type="checkbox"/> 2 December 2008	<input type="checkbox"/> Christie Corporate 320 Adelaide Street, Brisbane QLD 4001 Tel: (07) 3010 9111
<b>MELBOURNE</b> <input type="checkbox"/> 12 November 2008 <input type="checkbox"/> 3 December 2008	<input type="checkbox"/> Melbourne – 365 Little Collins 365 Little Collins Street Melbourne Victoria 3000 Australia Tel: (03) 8676 0365
<b>PERTH</b> <input type="checkbox"/> 17 November 2008 <input type="checkbox"/> 9 December 2008	<input type="checkbox"/> Perth – Cliftons Ground Floor Parmelia House 191 St Georges Tce Perth WA 6000 Tel: (08) 9480 0999

## C Event Pricing (please tick your selection)

<input type="checkbox"/> Session 1	\$950.00 + GST = \$1045.00
<input type="checkbox"/> Session 2	\$950.00 + GST = \$1045.00
<input type="checkbox"/> Session 3	\$500.00 + GST = \$550.00
<input type="checkbox"/> Session 4	\$500.00 + GST = \$550.00
<input type="checkbox"/> All Sessions - Receive 10% discount	\$2610.00 + GST = \$2871.00

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Register a team of 2 for the Conveyancing and Property Law Toolkit at the same time, from the same organisation and receive a free pass for the 3rd delegate.

\* Team discounts and any other discount cannot be taken concurrently

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|---|---|
| <input type="checkbox"/> Banking & finance            | <input type="checkbox"/> Family law                               |
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| <input type="checkbox"/> Corporate and commercial law | <input type="checkbox"/> Insurance and risk                       |
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