

Specialist Accreditation Scheme



2023 Property Law Assessment Requirements



THE LAW SOCIETY
OF NEW SOUTH WALES



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Performance Standard

Standard of Accredited Specialist

The Standard of an Accredited Specialist in Property Law is that of a 'specially competent practitioner' in the core skills and practical capabilities in the selected area of practice, as assessed against the spectrum of capability of all practitioners in that area of practice.

This standard is to be distinguished from the idea that the Scheme requires the highest technical legal knowledge across all aspects of the selected area of practice.

Important

Candidates are advised to read and familiarise themselves with the 2023 Guide to Application and Assessment which contains important information regarding application, process, resources and special consideration etc. This document can be found at: lawsociety.com.au/specialists

Timetable

The shaded area below shows the core assessment period including the dates associated with each assessment.

Candidates need to focus on this core assessment timeframe and plan their workload well in advance.

Based on feedback reports from previous years, candidates are encouraged to dedicate and manage their time during this period to optimise their performance across all assessment tasks.

Candidates are reminded that participating in the Specialist Accreditation program requires a considerable level of commitment if candidates are to achieve their desired outcome.

Activity	Date
Question & Answer sessions for potential candidates	Mid - February 2023
Applications for Specialist Accreditation close	Early Bird: Tuesday, 28 February 2023 Standard: Friday, 31 March 2023
Candidature confirmed	Friday, 28 April 2023
Mock File	Released: Thursday, 11 May 2023 Due: Thursday, 1 June 2023
Formal Written Examination	Saturday, 8 July 2023
Peer Interview	Sunday, 9 July 2023
Results released to candidates	Mid-October 2023
Reassessment and/or Appeal applications close	14 days from notification of results
Reassessment results released	December 2023
Appeal results released	December 2023

Core Skills and Knowledge Areas

Practitioners wishing to become Accredited Specialists in Property Law are expected:

- To display knowledge of the law and procedure which underpins the performance of tasks in the area of Property Law; and
- To perform the following tasks to the level of the performance standards.

Core Skills

1. Gathering information by:

1.1 Taking initial instructions

- Establishing the identity and legal capacity of the client, the identity, location and type of the property and the client's intentions;
- Developing a full picture of the transaction, problem or development;
- Assisting the client in thinking the problem through step by step to identify the client's goals and the best means of achieving them; and
- Discussing the question of costs and identifying the party who is responsible for the costs.

1.2 Gathering information from external sources

- Conducting searches to verify information obtained from the client and to define the extent of the client's risk in the transaction, problem or development;
- Knowing the procedures for obtaining the information required and conducting the searches with attention to detail and a concern for accuracy;
- Liaising with other professionals to obtain information; and
- Interpreting all the responses and assessing the impact of the information obtained on the transaction or development and the client's position.

1.3 Verification of Identity and Client Authorisation

- Identifying when verification of identity and client authorisation is required; and
- Determining how this should be carried out.

2. Determining course of action by:

2.1 Considering legal and practical implications

- Analysing the information gathered in light of the relevant law including recent Federal and State case law, revenue law and procedural requirements;
- Developing possible courses of action which reflect the client's objectives; and
- Considering strategy, including whether to submit draft documents for negotiation or to contact the other party's representatives.

2.2 Canvassing options with client

- Explaining complex legal and statutory concepts in a way that is understandable to the client;
- Explaining the impact of the transaction on the client's financial position, the timetable and the cost involved and outlining the sequence of the actions to be undertaken by or on behalf of the client; and
- Checking the client's understanding and confirming the client's instructions to proceed, where necessary in writing.

3. Implementing instructions by (where appropriate):

3.1 Negotiating

- Managing the client's expectations; and
- Aiming to successfully achieve the client's reasonable aims.

3.2 Drafting and assessing documents

- Preparing documents which address the pertinent legal issues, reflecting any agreement between the parties and achieving the client's aims within the applicable legal requirements. The documents should be in plain English, be internally consistent and deal with the transaction in a logical sequence;
- Carefully adapting precedents to reflect the particular transaction;
- Scrutinising and interpreting documents prepared by each other party, assessing the impact on the client of the expressed rights and obligations, and ensuring that the documents adequately include all details of any agreement; and

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- Dealing with all documents promptly with regard to time constraints and cost to the client.

3.3 Holding conferences

- Holding conferences with the client and, if necessary, with other professionals and with each other party's lawyers, to ensure the client is aware of all options and has a realistic understanding of the critical issues involved in the documents and the transaction prior to signing

3.4 Exchanging

- Assessing all approvals and materials required to be obtained prior to the client becoming bound by the transaction. When binding the client and the other party/parties, the solicitor demonstrates a knowledge of the rules of effective execution, is organised and able to handle last minute changes.

3.5 Finalising pre-settlement matters

- Carrying out further and final searches thoroughly, in a proper manner and at the appropriate time; and
- Dealing effectively with all parties to finalise financial arrangements.

4. Settling the matter by:

4.1 Preparing for settlement

- Reviewing all material previously prepared and considering whether, in the light of the information obtained, this material is adequate or further material is needed. The review, of necessity, must be based on a proper understanding of the instructions of the client and the relevant legal and commercial practice;
- Considering what steps need to be taken by each of the parties to the transaction to complete the transaction;
- Seeking agreement between the parties and their representatives as to the material and the steps and action to be taken by each party; and
- Ensuring that all material required on the client's part and all steps to be taken by or on behalf of the client are attended to.

4.2 Attending to completion

- Attending to completion and ensuring that all necessary material is tendered by the appropriate party;
- Understanding the importance of each document to the particular transaction and being able to judge whether to settle if the documentation is incomplete or imperfect; and
- Being innovative and mindful of the client's instructions and effecting completion when all material that the client needs has been received.

4.3 Finalising the matter

- Ensuring that all reporting requirements are completed, and that registration occurs promptly;
- Fully accounting to the client and highlighting issues which may impact on future dealings with the land;
- Implementing procedures for dealing with essential forward dates; and
- Advising the client regarding storage of file and requisite documents.

Knowledge Areas

Candidates will be expected to demonstrate knowledge of the following:

- Title;
- Types of property (Physical and Estates);
- Transactions and titling structures and
- Legislation.

Core Areas, Important Areas and Relevant Areas

The expressions Core Areas, Important Areas and Relevant Areas are used in these assessment requirements to communicate areas for focus as to the required standard of knowledge by the candidate.

Required Standard of Knowledge

- An in-depth knowledge of all Core Areas;
- Knowledge of the Important Areas and
- Familiarity with Relevant Areas.

Note: It is recommended that candidates have ready access to a loose leaf or electronic service on [property and conveyancing law](#).

A. Core Knowledge

Note: The legislation list is compiled as of November 2022. Candidates are expected to know the law as it applies at the time of assessments.

Subject	Core Areas	Important Areas	Relevant Areas
Title	<ul style="list-style-type: none"> - Torrens including qualified/limited - Strata Development (Freehold & Leasehold) - Strata Management - Community 	<ul style="list-style-type: none"> - Company title - Old System - Water Rights 	<ul style="list-style-type: none"> - Native Title - Crown Lands - Aboriginal Land Rights
Types of property	<ul style="list-style-type: none"> - Vacant Land - Residential - Commercial: <ul style="list-style-type: none"> - Office - Industrial - Retail - Rural Land 	<ul style="list-style-type: none"> - Licensed premises - Retirement Villages 	
Transactions	<ul style="list-style-type: none"> - Sale/Purchase - Electronic Conveyancing - Lease - Licence - Development of land & title structuring - Mortgages and securities - GST - CGT Withholding - Residential Withholding - Stamp duty - Statutory rates and charges - Land tax - Restrictive/Positive covenants - Caveats - Easements - Options - Co-ownership - Guarantees 	<ul style="list-style-type: none"> - Capital Gains Tax - Income Tax/depreciation - Environment (such as): <ul style="list-style-type: none"> ▪ Land use ▪ Contamination ▪ Noise ▪ Planning - FIRB 	<ul style="list-style-type: none"> - Competition and Consumer Law/Fair Trading - Profits à prendre

B. Legislation

Note: The legislation list is compiled as of November 2022. Candidates are expected to know the law as it applies at the time of assessments.

Subject	Core Areas	Important Areas	Relevant Areas
Federal	<ul style="list-style-type: none"> - A New Tax System (Goods and Services Tax) Act 1999 - Taxation Administration Act - Schedule 1, Subdivision 14-D - Taxation Administration Act - Schedule 1, Subdivision 14-E 	<ul style="list-style-type: none"> - Building Energy Efficiency Disclosure Act 2010 - Telecommunications Act 1997 - Personal Property Securities Act 2009 - Foreign Acquisitions & Takeovers Act 1975 	<ul style="list-style-type: none"> - Bankruptcy Act 1966 - Cheques Act 1986 - Competition and Consumer Act 2010 - Corporations Act 2001 - Environmental Reform (Consequential Provisions) Act 1999 - Family Law Act 1975 - Foreign Acquisitions & Takeovers Act 1975 - Income Tax Assessment Act 1936 - Income Tax Assessment Act 1997 - Lands Acquisition Act 1989 - Native Title Act 1993 - National Consumer Credit Protection Act 2009 - National Credit Code
New South Wales	<ul style="list-style-type: none"> - Community Land Development Act 2021 - Community Land Management Act 2021 - Conveyancing Act 1919 - Conveyancing (Sale of Land) Regulation - Duties Act 1997 - Electronic Conveyancing National Law. Including the NSW Participation Rules and the NSW Operating Requirements - The Conveyancing Rules - Environmental Planning and Assessment Act 1979 	<ul style="list-style-type: none"> - Access to Neighbouring Land Act 2000 - Agricultural Tenancies Act 1990 - Contaminated Land Management Act 1997 - Crown Lands Management Act 2016 - Encroachment of Buildings Act 1922 - Home Building Act 1989 - Liquor Act 2007 - Property and Stock Agents Act 2002 - Taxation Administration Act 1996 	<ul style="list-style-type: none"> - Aboriginal Land Rights Act 1983 - Associations Incorporation Act 2009 - Coastal Protection Act 2016 - Civil and Administrative Tribunal Act 2013 - Contracts Review Act 1980 - Conveyancing and Law of Property Act 1898 - Dividing Fences Act 1991 - Environmentally Hazardous Chemicals Act 1985 - Protection of the Environment Operations Act 1997 - Fair Trading Act 1987 - Farm Debt Mediation Act 1994 - Forestry Act 2012 - Health Administration Act 1982

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		<ul style="list-style-type: none"> - Trees (Disputes between Neighbours) Act 2006 	<ul style="list-style-type: none"> - Heritage Act 1977 - Inclosed Lands Protection Act 1901
Subject	Core Areas	Important Areas	Relevant Areas (cont.)
<p>New South Wales</p>	<ul style="list-style-type: none"> - Powers of Attorney Act 2003 - Real Property Act 1900 - Residential Tenancies Act 2010 - Retail Leases Act 1994 - Strata Schemes Development Act 2015 - Strata Schemes Management Act 2015 - Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 	<ul style="list-style-type: none"> - Local Government Act 1993 - Swimming Pools Act 1992 - Building and Development Certifiers Act 2018 - Design and Building Practitioners Act 2020 	<ul style="list-style-type: none"> - Land Acquisition (Just Terms Compensation) Act 1991 - Land Development Contribution Management Act 1970 - Land and Environment Court Act 1979 - Land Sales Act 1964 - Land Tax Act 1956 - Land Tax Management Act 1956 - Legal Profession Uniform Law - Limitation Act 1969 - Minors (Property and Contracts) Act 1970 - Coal Mine Subsidence Compensation Act 2017 - National Parks and Wildlife Act 1974 - Native Titles Act 1974 - Parking Space Levy Act 2009 - Perpetuities Act 1984 - Petroleum (Onshore) Act 1991 - Pipelines Act 1967 - Probate and Administration Act 1898 - NSW Trustee and Guardian Act 2009 - Public Works and Procurement Act 1912 - Retirement Villages Act 1999 - Biodiversity Conservation Act 2016 - Roads Act 1993 - Rural Fires Act 1997 - Soil Conservation Act 1938 - Succession Act 2006 - Sydney Water Act 1994 - Trustee Act 1925 - Valuation of Land Act 1916 - Water Act 1912 - Water Management Act 2000 - Wilderness Act 1987

Methods of Assessment

There are three components of assessment as follows:

- Take Home Written Assessment (Mock File);
- Written Exam; and
- Peer Interview.

Candidates must pass **all three** assessments in order to gain Specialist Accreditation.

Mock File

Release date: Thursday, 11 May 2023

Due date: Thursday, 1 June 2023

Candidates will complete a mock file that includes several tasks over a period that includes three weekends. The mock file will assess knowledge in core, important and relevant areas as well as the candidate's ability to deal with complex issues. The mock file is designed to assess the candidate's ability to consider, research and then advise on complex legal and factual problems and present them to the client in a comprehensible fashion.

Assessment Criteria

In the response candidates will be assessed on the following performance criteria. Candidates will be required to perform each criterion to the level of the performance standard.

- a. Ability to identify relevant issues from a given fact situation;
- b. Depth of knowledge of the law and its practice and skill in applying that knowledge to the given fact situation; and
- c. Ability to provide practical, clear and accurate advice, including advice on the appropriate solution.



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Written Examination

Examination date: **Saturday, 8 July 2023**

Venue: **TBC***

Candidates will sit a written examination assessing knowledge in Core Areas. The examination will focus on legal principles essential to the Property Law Accredited Specialist and the ability to identify problems in a range of areas. The examination is likely to include problem-solving questions related to core knowledge, and questions relating to recent legislation and case law.

The exam will be **open book** and three hours in duration with reading time of twenty minutes. Candidates will be permitted internet access during the exam.

**All candidates will be notified of the examination time and venue in advance of the interview date.*

Assessment Criteria

In the response candidates will be assessed on the following performance criteria. Candidates will be required to perform each criterion to the level of the performance standard.

- a. Ability to identify relevant legal issues from a given fact situation;
- b. Depth of knowledge of the law and its practice and skill in applying that knowledge to the given fact situation; and
- c. Knowledge of legal principles.



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Peer Interview

Interview date: Sunday, 9 July 2023

Venue: TBC*

During the peer interview candidates may be asked questions about the mock file in addition to discussing a range of legal issues relating to the practice of Property Law.

The interview will be conducted by a panel of two assessors. A range of performance criteria, including an ability to identify legal issues, to offer viable and legally effective solutions and to communicate rights and obligations will be assessed.

Assessment criteria

In the response candidates will be assessed on the following performance criteria. Candidates will be required to perform each criterion to the level of the performance standard.

- a. Demonstrate clear oral expression;
- b. Ability to think quickly and incisively under pressure;
- c. Ability to engage productively in dialogue with professional colleagues; and
- d. Ability to show that knowledge acquired of the area is correct and can be brought to immediate use in a coherent and meaningful way.

**All candidates will be notified of the interview time and venue in advance of the interview date.*

Suggested Reading Materials

Books

- A. Bradbrook, S MacCallum, *Bradbrook and Neave's Easements and Restrictive Covenants*, 3rd ed, LexisNexis, 2011
- Butt, P., *Second cumulative supplement to the standard contract for sale of land in New South Wales*, (Lawbook Co, 1989)
- C Croft, R Hay, L Virgona, *Commercial Tenancy Law*, 4th ed, LexisNexis, 2018
- W D Duncan, S Christensen, *Commercial Leases in Australia*, Thomson Reuters, 8th ed, 2017
- Edgeworth, B., *Butt's Land Law*, (Thomson Reuters, 7th ed, 2015)
- P. Lane, D. Coshott, S. Chapel, *Sale of Land in NSW: Commentary & Materials*, Thomson Reuters, 2018
- Skapinker, D. and Lane, P., *Sale of Land in NSW*, (Lawbook Co, 2009)
- Stilianou, G., *Land Titling Law and Practice in NSW*, (Thomson Reuters, 2013)
- *Annotated Conveyancing and Real Property Legislation*, G. Newton, LexisNexis, 2020 - 2021
- Zipfinger, F. and D'Angelo, N., *The Stamp Duty Book NSW*, (LexisNexis, 2nd ed, 1998)
Note: For development since 1998, please refer to Wolters Kluwer CCH, *New South Wales and ACT Duties Law & Practice*

Online and loose-leaf

- Thomson Reuters, *Land Titles Office Practice NSW*, (2001)

Online

- Law Society NSW Resources
<https://www.lawsociety.com.au>
- LexisNexis, *Practical Guidance Property*
<http://www.lexisnexis.com.au/practicalguidance/property>
- Wolters Kluwer CCH, *New South Wales Conveyancing Law and Practice*, Subscription
<http://www.wolterskluwer.cch.com.au>
- Wolters Kluwer CCH, *New South Wales and ACT Duties Law & Practice*, Subscription
<http://www.wolterskluwer.cch.com.au>

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