



**NEW  
SOUTH WALES**

## 5 Reasons to Use Title Insurance

Title Insurance can be used as a risk management tool in the conveyancing transaction.

Below are real claims paid under Stewart Title's Residential Purchaser Policy demonstrating the value of title insurance policies in providing protection to home buyers and existing home owners against certain unknown and hidden risks inherent in property transactions.

With no excess payable on claims, the insured is compensated for the full value of their loss on a no-fault basis.\*

### **1. Illegal Pergola & Carport**

Following settlement of the purchase of a home in suburban Sydney, our insured noticed some building irregularities with the pergola on their property. The insured applied for a building certificate from the local Council. Following the Council inspection, the insured was advised by Council that approval for the pergola had not been obtained by the previous owner and no final inspections had been carried out in respect of a carport and tool shed also located on the property. The Council ordered that the illegal structures be demolished.

#### *The Resolution*

Stewart Title paid for the demolition and reconstruction of the pergola, carport and tool shed. We handled all correspondence with Council and arranged final inspections in respect of the new structures.

### **2. Encroaching Driveway**

Following settlement, our insured obtained a survey report as part of a development application to construct a new carport on the property. The survey report showed that a significant portion of the insured's driveway encroached upon the neighbour's land. The insured was not aware of the encroachment when he purchased the property.

The neighbour became aware of the encroachment and took steps to fence off that part of the insured's driveway which encroached onto the neighbour's property. As a result, the insured's access to the property was restricted and the insured lost the use of that part of the driveway which the insured thought was inside the legal property boundary.

#### *The Resolution*

Stewart Title compensated the insured for the market value of the lost driveway and paid all valuation costs.

### **3. Unapproved Building Modifications**

Our insured purchased a house in Sydney which had recently been extended with the addition of two bedrooms and a large ensuite. The conveyancer made enquiries of the vendor and Council in relation to whether the extensions had been Council approved. The vendor and Council supplied the conveyancer with a series of interim inspection notices and a final inspection notice which indicated that the final works had been approved and inspected by Council.

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Not long after settlement, the insured lifted some tiles in the shower area to investigate some grouting issues. The insured discovered that there was no waterproof membrane under the shower recess. The water had damaged the under flooring and all of the tiles.

Council was called to inspect and offer an explanation. Council advised that the waterproof membrane was exactly where it was supposed to be – it was the shower recess which had been moved. Investigations revealed that the previous owner had actually changed the ensuite configuration after they had obtained the final inspection certificate from Council. The previous owner had moved the shower and water basin to another part of the ensuite.

#### *The Resolution*

Stewart Title paid for rectification works to be carried out and certified by Council. The rectification works amounted to approximately \$20,000.

#### **4. Registration Gap**

Our insured purchased a property in rural NSW. On the day of settlement, our insured's conveyancer conducted a final search which was 'clear'. Settlement proceeded and was concluded without incident. Following settlement but before registration of our insured's transfer, a caveat was lodged by a creditor of the vendor of the property, claiming an equitable interest in the property pursuant to an unpaid loan. The caveat prevented registration of our insured's interest in the property.

#### *The Resolution*

Registration of a caveat or writ which prevents the insured's interest in the property from being registered or recorded is a standard covered risk under Stewart Title's Residential Purchaser Policy. In this claim, Stewart Title retained a national law firm to liaise with the caveator's lawyers in order to arrange a withdrawal of the caveat.

A duly executed withdrawal of caveat was provided by the caveator's lawyers and was submitted to the insured's mortgagee in order for the insured's transfer and the mortgagee's mortgage to be registered.

Stewart Title paid all legal fees and registration fees in relation to obtaining the withdrawal of caveat.

#### **5. Unpaid Land Tax**

Following settlement, our insured received notification from the Office of State Revenue that there was an outstanding land tax charge on the insured property. The insured's practitioner had failed to obtain a clear land tax certificate prior to settlement due to oversight.

#### *The Resolution*

Stewart Title paid the outstanding land tax plus interest that had accrued which totaled approximately \$6,000 and obtained a clear land tax certificate from the Office of State Revenue.

Although the claim was as a result of an error, Stewart Title waived its rights of subrogation under the policy against the conveyancer and did not take subsequent action to recover the outstanding land tax from the conveyancer.

**Contact us for more information.**

**Stewart Title Limited**  
GPO Box 527  
Sydney NSW 2001  
1800 300 440

[www.stewartau.com](http://www.stewartau.com)

\*Please note that coverage under the policy for unapproved building work is capped at \$150,000 and coverage for boundary and survey risks will not apply to land where the land area size exceeds 50 acres.

This material is intended to provide information of a general nature. Please refer to the policy for full details, including the specific terms and conditions. Sample policies are available on our website or upon request. Stewart Title Limited ARBN 101 720 101 (United Kingdom).

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