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Managing Risk in

Commercial Property Transactions







There are many risks inherent in the conveyancing process which may cause you loss or affect your ownership. Title insurance is a specialised type of insurance available to purchasers and owners of commercial property.

Stewart Title has developed a comprehensive Commercial Purchaser Policy for transactions of up to $5,000,000 which provides protection in respect of commercial, industrial and rural* zoned land against certain unknown and hidden risks.

For commercial properties with a purchase price of over $5,000,000, Stewart Title offers cover which may be tailored to suit your risk management needs. Our Commercial Purchaser Policy is also available for existing owners.

Covered Risks

Cover is provided for a broad range of risks including**:

Illegal Building Work

Enforcement action by a Local Authority in relation to illegal structures which have been built without the required Council permits or which do not comply with those permits (for rural properties this cover only applies to the primary residence and not to other structures on the property).

Survey/Boundary Defects

Any adverse matters that would have been revealed in an up-to-date survey report (excluding boundary walls and fences).

Registration Gap

Someone else lodges a dealing which prevents your interest from being registered or recorded.

Fraud, Forgery & Identity Theft

Loss due to fraud, forgery or identity theft which affects your ownership at the time of purchase.

Planning & Title Defects

Loss due to non-compliance with existing planning and zoning laws, unregistered ease-ments and covenants, access orders, access rights or a right of way, lack of legal access or defects in title to the land.

Unmarketability

Loss on resale of the property because of the existence of a covered title risk.

Outstanding Rates & Taxes

Outstanding rates and taxes on the property which you are now liable for as the current owner of the property.

Exclusions

Like all insurance policies, a Commercial Purchaser Policy excludes certain risks from cover. Some of these standard exclusions include:

- Risks which cause no loss or damage
- Boundary walls and fences



- Risks or loss arising from environmental contamination
- Risks or loss arising from leasing activities
- Risks which the insured creates, allows or agrees to
- Risks which are known to the insured, but not to Stewart Title
- Risks which occur or come into existence after the policy date (except where specifically included in the policy)
- Native title
- Loss or damage arising from non-compliant external cladding for Commercial Purchaser Policies issued for strata title properties

Marketability Cover

A unique feature of commercial title insurance is 'marketability' cover. Cover is provided to you in the event that the property becomes unmarketable because a buyer refuses to complete a contract to purchase the insured property or comply with a lease, or a lender refuses to grant a mortgage over the property as a result of a risk that is covered under the policies.

This protection helps to ensure that a transaction proceeds that might otherwise have fallen through. We may rectify the defect or you may be compensated where there is a reduction in the sale price or you re-sell the property to another purchaser at a lower price.

Duty to Defend

In addition to cover for actual loss, Stewart Title has a duty to defend any challenge to your title based on a covered risk. As part of this duty, we will cover the costs, legal fees and expenses incurred in that defence. It is of considerable benefit to you that any such costs, fees or expenses paid will not reduce the policy amount of cover provided.

A Different Kind of Insurance

- One-time premium provides protection for life of property ownership
- No excess payable on claims
- No-fault claims process means you don't have to prove fault or negligence - you need only prove that you have suffered actual loss based on cover that the policy provides

Additional Consumer Resources

To ensure that our customers understand the coverage they are receiving, Stewart Title provides a number of resources including Sample Policies, Policy Consumer Guides and Key Facts Sheets. These resources were designed to assist you with understanding policy coverage, as well as the exclusions, provisions, conditions or limits that may apply. Our consumer resource library, along with our videos and claims stories, can be found on our website. If you already own your commercial property, you can obtain the protection that title insurance provides by applying for a Commercial Existing Owner Policy.

How to Apply for a Commercial Purchaser Policy

A Stewart Title Commercial Purchaser Policy can be arranged through your conveyancer or solicitor. If your conveyancer or solicitor cannot arrange a policy, you can submit an application directly to Stewart Title. A Policy Order Form can be obtained from our website or by contacting us on 1800 300 440.

A Commercial Purchaser Policy should be applied for prior to settlement. Confirmation of your order will be provided prior to settlement so that you can proceed with the transaction with certainty. Once we receive your premium and notification that settlement has occurred, a policy will be issued to you.

About Stewart Title

Stewart Title is wholly owned by Stewart Title Guaranty Company, the primary underwriter for Stewart Information Services Corporation (Stewart). The Stewart group of companies traces it origins back over 120 years in the USA and provides its products across numerous international markets.

Backed by our size, stability and experience, the Stewart group of companies is renowned for its comprehensive protection and exceptional claims paying ability. Since the company's founding, we have maintained strong, steady growth.

In Australia, Stewart Title Limited is regulated by the Australian Prudential Regulation Authority and its underwriting risks are reinsured with its parent company. Stewart Title is authorised to provide general insurance in all States and Territories and offers a full range of both residential and commercial title insurance products to purchasers, existing owners and lenders.

International Commercial Experience

As one of the world's leading title insurers, Stewart Title's commercial portfolio is among the strongest and most impressive in the industry. Our global reach and financial strength, combined with the experience of our commercial team, enable us to handle the most complex transactions. Globally we have provided customised coverage for some of the world's best hotels, golf courses, resorts, office towers and business centres. This impressive portfolio ranges from smaller commercial sites to multi-site and cross-border transactions.

Please note that any policy application will be assessed by Stewart Title on a case-by-case basis and will be subject to Stewart Title underwriting guidelines. You will need to rely on the policy documentation issued by Stewart Title for confirmation of the specific coverage that is available for your property. Sample policies are available on our website or upon request.

Contact us for more information.

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

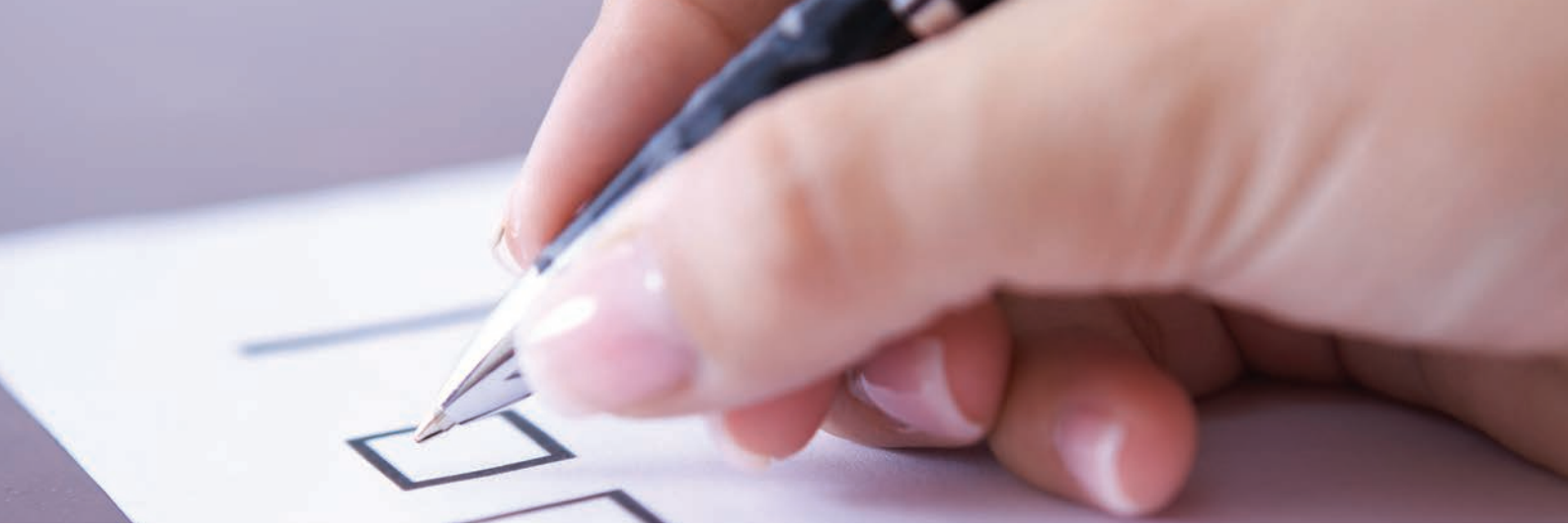
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*Where the property is used for a commercial enterprise.

**Please note that coverage under the policy for unapproved building work is capped at $160,000 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. Premiums are subject to change without notice. Stewart Title Limited ARBN 101 720 101 (United Kingdom).
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Victoria

5 Reasons to Use Title Insurance

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

Below are real claims covered by Stewart Title. These claims demonstrate 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 | Boundary Realignment

Our insureds obtained a title insurance policy when purchasing their home in Yarraville. A number of years later, our insureds discovered that part of the boundary fence sat within their property and the neighbour had acquired legal title to a strip of the insureds' land measuring approximately 3.2 square metres.

The neighbour was entitled to acquire title to that part of the insureds' property by operation of section 99 of the Transfer of Land Act 1958. Our insureds were not aware of the boundary discrepancy when they purchased the property.

The Resolution

Stewart Title compensated the insureds for the market value of the land lost by the realignment of the boundary. The compensation exceeded $7,000.

2 | Unsatisfied Condition of Planning Permit

Our insured purchased a residential property in West Footscray. The property formed part of a large development subdivision. Following settlement, our insured received a letter from lawyers acting for the local Council advising that a condition of the planning permit issued for the subdivision had been unsatisfied. Council required that the insured sign a Section 173 Agreement concerning compliance with a Statement of Environmental Audit and arrange for the Agreement to be registered on title at the insured's cost. The Agreement should have been registered prior to the issuing of the Occupation Certificate but was overlooked by Council.

The Resolution

Stewart Title engaged lawyers on behalf of the insured to negotiate the terms of the section 173 Agreement and arrange for mortgagees consent and registration. Stewart Title covered all of the legal costs and associated costs in registering the section 173 Agreement.

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3 | Unapproved Conversion

Our insured purchased a property at the foot of the Dandenong Ranges. Some time after settlement, the local Council informed our insured that the use of the property had previously been changed from a church to a residential dwelling and that substantial renovations had been carried out without a building permit.

Council issued a Building Order and required certification by a registered building surveyor that the house and the use of the dwelling complied with the relevant provisions of the Building Act 1993 and Building Regulations 2006.

A registered building surveyor carried out an inspection of the house and found that substantial rectification works were required in order for the house to comply.

The Resolution

Stewart Title indemnified the insured in relation to complying with the Building Order and paid approximately $100,000 in rectification and associated certification costs. Stewart Title liaised with Council and obtained a cancellation of the Building Order once the rectification works had been completed to Council's satisfaction.

4 | Adverse Affectation

Several weeks after settlement of the purchase, our insured received a rates notice from Council which included a special charge for road upgrading which had been levied against the insured property. Whilst the special charge had been disclosed in the Council information certificate attached to the Contract for Sale, the conveyancer, due to an oversight, failed to inform the insured of the special charges scheme prior to settlement. As the new owner of the property, the insured was liable to pay the special charge in the sum of $14,500.

The Resolution

Stewart Title paid the outstanding special charge to the Council in full releasing the insured from any liability to pay the charge. Although the claim was 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 special charge from the conveyancer.

5 | Unapproved Carport

Following settlement of the purchase of a home in suburban Melbourne, our insured received a Building Notice from Council in relation to a large carport which had been erected on the property by the previous owners without a building permit.

Council required a certificate to be issued by a registered building surveyor confirming that the carport complied with the relevant provisions of the Building Act 1993 and Building Regulations 2006. A registered building surveyor carried out an inspection and required the insured to obtain the following:

- Structural Engineer's Report
- Draftman's plans for the carport
- Geotechnical Report
- Soil Report
- Plumbing works to be carried out to connect the downpipes on the carport to the existing storm water system

The Resolution

Stewart Title indemnified the insured and paid for the various reports to be provided to the building surveyor and paid for the plumbing works to be carried out. Stewart Title handled all correspondence with Council and the building surveyor and arranged final inspections and a final certificate of compliance to be provided to Council. Council cancelled the Building Notice.

Contact us for more information.

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