



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.

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

stewartau.com

*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. Stewart Title Limited ARBN 101 720 101 (United Kingdom).

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