

## 5 Reasons to Use Title Insurance as a Tool in the Conveyancing Transaction

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 this tool for practitioners and their clients.

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** Clause 2.1(p)(iii)

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

### 2. MISDESCRIPTION

Our insured entered into a contract to purchase a residential property in rural NSW. The property described in the contract comprised a small fibro cottage on three adjoining titles.

Following settlement, the insured became aware that the house and lots that they had been occupying were actually owned by someone else and that the lots they had in fact purchased were vacant land. As a result the insured were forced to vacate the residence and find alternative rental accommodation.

The insured were not aware of this error at the time of settlement.

#### **The Resolution** Clause 2.1(i)

The insured retained the vacant land which they had in fact purchased and received an amount from Stewart Title which represented:

- the difference between the value of the residence and the three vacant lots;
- legal fees associated with the purchase of a new home;
- stamp duty associated with the purchase of a new home; and
- reimbursement of rental for alternative accommodation.

### 3. ILLEGAL GARAGE

Following settlement, our insured received a letter from their local Council advising that Council proposed to issue an Order for the demolition of the garage situated on the insured property which had been constructed by the previous owners without obtaining appropriate Council approvals.

The insured advised Council that they wished to retain the garage. Council subsequently inspected the garage and following that inspection, notified the insured that they were required to obtain various expert reports and submit them to Council with an application for a Building Certificate. Council carried out further inspection of the garage and required that certain works be undertaken so it complied.

#### **The Resolution** Clause 2.1(p)(iii)

Stewart Title covered the cost of the expert reports, application for a Building Certificate and costs associated with rectification works.

Stewart Title also liaised directly with Council on behalf of the insured and arranged time extensions for compliance with notices.

### 4. ENCROACHING SEPTIC SYSTEM

The insured purchased a property in rural NSW. The septic system which serviced the property was almost wholly located on the adjoining property. This was unknown to the insured at the time of their purchase.

Some time after the insured took possession of the property, the neighbour discovered the encroaching septic system and promptly disconnected it.

Problems surfaced almost immediately and we were contacted by the conveyancer who had ordered the policy on behalf of their client.

#### **The Resolution** Clause 2.1(o)(ii)

Stewart Title paid for a survey of the property to ascertain its legal boundaries and paid for the installation of a new septic system.

This was a problem which would not have been discoverable through a building certificate or survey.

### 5. UNPAID RATES

Following settlement, the insured received notification from Council that there were outstanding water/sewerage rates in relation to the insured property.

An error had been made by the insured's conveyancer in the adjustment of rates on settlement.

#### **The Resolution** Clause 2.1(v)

Stewart Title paid the outstanding rates plus interest that had accrued thereon.

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 rates from the conveyancer.