



## Title Insurance for Home Buyers of Strata Properties

When buying a property there are many inherent risks which may cause you loss or affect your ownership. Title insurance is a specialised type of insurance that provides home buyers of residential strata properties with protection against certain unknown and hidden risks which may exist at the time of purchase.

### **Cover is Provided for a Broad Range of Risks\***

#### *Unapproved Alterations*

Enforcement action by a Local Authority or Body Corporate in relation to alterations which have been made to the Strata Unit without the required Council and/or Body Corporate approvals of which you are unaware at the time of purchasing the Strata Unit.

#### *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 results in you being deprived of your ownership of the Strata Unit.

#### *Planning & Title Defects*

Loss due to non-compliance with existing planning and zoning laws, unregistered easements and covenants, access orders, access rights or a right of way, lack of legal access or defects in title to the Strata Unit of which you are unaware at the time of purchasing the property.

#### *Outstanding Rates, Taxes & Strata Levies*

Outstanding rates, taxes and strata levies (including special levies) on the property which you are now liable for as the current owner of the Strata Unit.

### **A Different Kind of Insurance**

- One-time premium provides protection forever (premium schedules are available on [www.stewartau.com](http://www.stewartau.com))
- 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
- 200% 'inflation' allowance for increases in the value of the property over time

### **Known Risk Coverage**

If you discover a defect or risk during the conveyancing transaction, please contact us as we may be able to provide cover over a known defect or risk for no additional premium.

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## **Claims Scenarios**

### ***Unapproved Alterations***

You purchase a strata unit. Following settlement, you discover that the previous owners carried out renovations to the bathroom and kitchen which involved modifications to the 'common property' walls without obtaining the approval of the Body Corporate or Council. This was not disclosed by the vendor when you purchased the property.

You are ordered to reinstate the common property walls and pay any damages or costs incurred by the Body Corporate, even though you were not responsible for the unapproved works.

In this scenario, Stewart Title would pay for the costs associated with complying with the order, including any loss in market value of the property.

### ***Special Levies***

Prior to settlement of your purchase, the Body Corporate strikes a special levy of \$5,000 for each lot owner to carry out major works to the strata building. This special levy is not disclosed to you prior to settlement.

After settlement, you become liable to pay the \$5,000 special levy even though it was not disclosed to you when you purchased the property.

In this scenario, Stewart Title would compensate you for the \$5,000 special levy for which you are now liable.

### ***Registration Gap***

After settlement, but before your title documents are registered at the land title registry, somebody else lodges a caveat or writ on the title and claims an interest in your Strata Unit.

Your interest in the Strata Unit is unable to be registered until the caveat or writ is removed. You face significant legal costs and a potential dispute with the third parties who lodged the caveat or writ.

In this scenario, Stewart Title would defend your title, including paying all legal costs and expenses associated with the commencement of legal proceedings necessary to rectify the title and obtain registration of your interest at the land title registry.

## **Solicitor's or Conveyancer's Advice Combined With Title Insurance**

Title insurance does not replace the role of a conveyancer or solicitor. The combination of title insurance with your conveyancer's or solicitor's professional advice will provide the most comprehensive protection against risks which may affect your legal ownership of your home.

If you already own your home, you can obtain the protection that title insurance provides by applying for a Residential Strata Existing Owner Policy.

**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 \$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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# CLAIMS STORIES FROM OUR FILES

## UNAPPROVED ALTERATIONS TO STRATA UNIT

Stewart Title has a long history of issuing title insurance policies and our financial strength and claims paying ability make us an industry leader. Claims are resolved in a timely manner through a professional, practical and result-oriented approach.

**Below is a real life claims scenario handled by our Claims Team:**

### The Scenario:

- ▷ Insured purchased a strata apartment
- ▷ Following settlement, the insured received a Notice from Strata Manager advising that a routine inspection had revealed that a second air-conditioning unit installed without Body Corporate approval
- ▷ Installation breached by-laws
- ▷ Insured required to remove air-conditioning unit and remediate common property wall

### Claim Resolution:

- ▷ Stewart Title arranged for removal of the air-conditioning unit and remediation of common property wall
- ▷ Costs approximately \$1,200
- ▷ Ensured no further breach and no further action
- ▷ Premium paid \$272.25
- ▷ No excess



## TITLE INSURANCE KEY FEATURES

- ✓ One-time premium payable on settlement
- ✓ No excess payable on claims
- ✓ No fault claims process
- ✓ Covered for life of ownership of the property

**Contact us for more information.**

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# CLAIMS STORIES FROM OUR FILES

## NON-COMPLIANCE WITH PLANNING RESTRICTION

Stewart Title has a long history of issuing title insurance policies and our financial strength and claims paying ability make us an industry leader. Claims are resolved in a timely manner through a professional, practical and result-oriented approach.

**Below is a real life claims scenario handled by our Claims Team:**

### The Scenario:

- ▷ Insured purchased a Strata Unit 'off the plan'
- ▷ A condition of the building permit for the development was that a number of the apartments had to be reserved for 'student accommodation'
- ▷ This restriction was to be recorded on title as a 'Restrictive Covenant' but the developer overlooked this condition and the insured settled
- ▷ Insured was not a student and was not aware of the restriction
- ▷ After settlement, the developer discovered the error and tried to force the insured to sign the Covenant who refused
- ▷ The developer then sued the insured

### Claim Resolution:

- ▷ Insured made a claim on Strata Policy
- ▷ Stewart Title engaged lawyers to defend the insured
- ▷ The matter went to a Hearing in the Supreme Court
- ▷ Stewart Title obtained settlement on behalf of the insured which involved the developer 'buying back' the Strata Unit and reimbursement of all costs and payment of additional compensation
- ▷ Stewart Title indemnified insured and paid all costs associated with the resolving the issue



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## 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. Illegal Conversion

Our insureds purchased a large piece of land, which included a house. Following settlement they approached the local shire to obtain a copy of the house plans to build an extension. The shire informed them there were no such plans and that the house was converted from a barn without a building licence. The shire notified our insureds that the barn was an illegal dwelling and legal action might be taken against them if they continued to use it as such.

#### *The Resolution*

Stewart Title compensated the insureds for the full value of the house, and valued as though it were approved. The value of the house was determined by an independent valuation also paid for by Stewart Title.

### 2. Adverse Affectation

Several weeks after settlement of 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, had 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.

### 3. Unapproved Carport

Following settlement of the purchase of a home, 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.

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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:

- a Structural Engineer's Report;
- Draftman's plans for the carport;
- Geotechnical Report;
- Soil Report; and
- 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.

#### **4. Breach of Building Licence**

Our insureds purchased their home and at the front of the property stood an attractive front entrance gate supported by brick piers. Nothing appeared untoward with the gate and piers at the time of purchase. The orders and requisitions from the local shire confirmed there was a building licence and the insureds' structural engineer's report did not reveal any defects in the construction.

Several years later, the neighbour complained to the Council that one of the brick piers encroached onto his property. The shire inspected the property and confirmed that the pier did indeed encroach over the boundary with the neighbour and onto the street in breach of the conditions of the building licence. The shire ordered our insureds to relocate the pier within the property boundaries and then provide a survey report confirming this had been done.

#### *The Resolution*

Stewart Title paid for the cost of demolishing and rebuilding the pier and re-hanging the gate within the property boundaries as well as the cost of the surveyor's report.

#### **5. Outstanding Work Order**

Our insured purchased a property that was serviced by a septic system. Unknown to our insured, there was an outstanding work order against the property issued by the Water Corporation for the connection of the property to the public sewer and the decommissioning of the septic system. As the new owner of the property, our insured was required to comply with that work order, which involved digging up the driveway.

#### *The Resolution*

Stewart Title indemnified the insured for the costs of connecting to the sewer and decommissioning the septic system.

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