



Did you know? Stewart Title provides cover for 'Known Risks'

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Most conveyancing practitioners in Australia are aware of title insurance as a risk management tool which provides protection to buyers and existing home owners against *unknown* risks and *undiscoverable* or *undiscovered* title related defects.

What's not as well-known however, is that Stewart Title is *also* able to provide cover to purchasers and existing home owners for certain 'known risks'.

This ability to insure against 'known risks' has not been available to purchasers or existing home owners prior to the introduction of title insurance into the Australian real estate market.

What is a 'Known Risk'?

A 'known risk' is simply any matter which may be adverse to the purchaser's interest and ownership of the property which is disclosed in the contract for sale or otherwise discovered during the course of the conveyancing transaction.

Known risks may include (but are not limited to):

- unapproved building works,
- survey/boundary defects/encroachments,
- breaches of zoning or planning laws/regulations,

- breaches of covenants, easements and restrictions affecting the land; and
- knowledge of unregistered rights and interests affecting the land

What does Stewart Title cover?

Subject to Stewart Title's specific underwriting guidelines, Stewart Title may on a case by case basis provide full or partial coverage for the known risk with no additional premium payable. The extent of cover will depend on the nature of the risk.

In relation to **boundary encroachments** for example, Stewart Title may provide **forced removal protection** to cover the costs of the insured having to demolish the encroaching structure or Stewart Title may provide **defence of title** cover to cover the costs of defending any legal proceedings commenced by a neighbour or other party in relation to the encroachment.

In relation to known **unapproved building works**, Stewart Title may provide **forced removal protection** to cover the costs of the insured having to demolish the unapproved structure but such costs would not extend to the costs of rebuilding the structure or any diminution in the value of the property.

In addition to the forced removal cover, Stewart Title may also contribute to **upgrading/rectification/retrospective approval costs** in the sum of \$2,000 in relation to a minor structure (such as decks, pergolas, carports etc.) and \$5,000 in relation to a major structure (such as garages, additions, enclosed structures). In some cases, Stewart Title may elect not to insure the risk at all.

Where cover is provided, such cover will be subject to the insured not bringing the known risk to the attention of Council or third parties during the insured's ownership of the property.

Given the diversity of risks which might be uncovered during the course of a conveyancing transaction, every risk will be assessed by Stewart Title on a case by case basis.

What 'Known Risks' are not covered?

Generally, Stewart Title will not provide any coverage for known risks in the following circumstances:

- Where the 'known risk' relates to a swimming pool or non-compliance with swimming pool legislation or building code regulations relating to swimming pools and swimming pool fences;
- Where the 'known risk' is an unapproved granny flat or dual occupancy;
- Where the 'known risk' relates to unapproved building works, unapproved conversions etc. on a property which is tenanted and will remain tenanted;

- Where the ‘known risk’ relates to unapproved building work which is known to be unsafe, or structurally deficient, dilapidated or otherwise does not comply with building codes and building standards;
- Where the Council or adjoining owners are also aware of the ‘known risk’, i.e., the Council is made aware of unapproved building work or the adjoining owner is made aware of an encroaching structure.
- Where the ‘known risk’ is a matter which falls within an exclusion under the title insurance policy.

Recent ‘Known Risk’ coverage example

A conveyancing practitioner recently contacted our Underwriting Department in relation to a ‘known risk’. The vendors had disclosed in the contract that an entertainment area, bedroom extension and lounge room extension had been built without obtaining the required permits from Council.

As the client had been made aware of these matters prior to settlement and prior to obtaining a policy from us, we treated the unapproved structures as a ‘Known Risk’ for the purposes of assessing policy cover.

In this case, Stewart Title provided cover for the enforced removal or rectification and upgrade of the unapproved entertainment area, bedroom extension and lounge room extension up to a maximum aggregate amount of \$5,000 but on the condition that the Insured did not bring the Known Risks to Council’s attention.

The Known Risk cover didn’t include any loss in market value if the structures had to be demolished nor did it extend to any obligation to rebuild the structures. This cover was provided at no additional cost.

Is your client protected?

For more information visit our website www.stewartau.com or call 1800 300 440.

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