

## Ownership and Use Rights

Under **First Title's Home Owners GOLD** policy, there are a comprehensive range of risks covered relating to ownership and use of the insured's property. The following is an example of the type of claim that may arise – meaning that the insured simply makes a claim on their policy, rather than having to claim against their conveyancing practitioner or the statutory compensation fund.

A couple purchased a property without needing a mortgage loan. They purchased a **Home Owners GOLD** Policy to protect their interest in the property instead of obtaining a survey. Because there was no survey undertaken, the couple did not know that the dwelling was constructed without reference to the correct boundaries of the site. As a result, one wall of the dwelling (front with veranda) encroached over the boundary onto a council reserve and as a result an incorrect boundary line was taken by the previous owners.

The couple subsequently applied for finance however the lender required a valuation on the property. The valuer discovered the encroachment and the lender declined the loan application.

### Action

Pursuant to the terms of the Policy, **First Title** accepted the insureds' claim and instructed its external solicitors to liaise with the Council and obtain a resolution to the problem. **First Title's** lawyers raised "existing use rights" with the Council and negotiated an easement to ensure the insureds' interest is protected so the lender could consider the couple's loan application. Under the duty to defend coverage, **First Title** paid all legal costs in negotiations with the Council to find a resolution.

It is not uncommon for vendors to misrepresent information about their home during the sale process. This can often just be innocent misrepresentation where the vendor does not realise it has to give the purchaser important information about the condition of the house and work that has been done to it. Unfortunately misrepresentation can sometimes be dishonest. There is nothing that a good Conveyancing Practitioner can do to protect a purchaser from innocent or intentional misrepresentation.

A growing number of Conveyancing Practitioners and Solicitors recommend **Home Owners GOLD** to their purchasing clients and, with your best interests in mind, would be delighted to arrange a policy on your behalf.

Simply instruct your Conveyancing Practitioner prior to settlement and your protection can commence as soon as you've purchased your new property. Your Conveyancing Practitioner is required to provide us with a "Report on Title", for which they may receive a fee from **First Title**.



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A Member of **FAF International**

This material is intended to provide general information only. For specific coverage conditions and exclusions, refer to the policy. Copies are available upon request. Premium is payable in full when the policy is issued. Some products/services may vary by state. Prices and products offered are subject to change without notice.

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## Home Owners **GOLD** Title Insurance



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## Buying a home without Title Insurance... Is the risk worth taking?

During a conveyancing transaction your Conveyancing Practitioner will work diligently to identify risks that may affect the property you are buying.

They may find matters that could affect the use of the property in the future. However, there are also risks that even the most diligent process cannot uncover...

**Home Owners GOLD** is available for property purchases and can protect against unknown risks (clear title) that could give rise to loss in the future or known risks; that is where you or your Conveyancing Practitioner have discovered or been made aware of an existing or potential risk relating to the ownership or use of the property.

A **Home Owners GOLD** policy attracts a 'once off' premium. For example a property purchase up to \$500,000, **Home Owners GOLD** will cost a one off premium of \$300.00 (excluding GST & Stamp Duty) or the equivalent of \$3.57 a month (assuming average ownership of 7 years).

### Superior protection and peace of mind...

**First Title's Home Owners GOLD** policy provides a lifetime of ownership protection and comfort in knowing that you have coverage against the following risks that could cause stress and financial loss in the future with NO EXCESS payable on a claim, such as:

- Illegal building work that could result in the council ordering you to demolish or repair part of or all of your new home;
- Someone else claiming an interest in your land, which can occur between settlement and registration, which we call 'gap cover';
- Fraud or forgery resulting in a challenge to your ownership;
- Fraud or forgery resulting in your home being mortgaged without your knowledge;
- Any issue that would have been revealed in an up to date survey, with NO LIMITATION as to boundary walls or fences;
- Zoning issues which prevent you from residing in your house;
- Outstanding rates and taxes on the property which you become liable for as owner.

## Illegal Building Works and Building Certificate Risks

**First Title's Home Owners GOLD** covers a large range of risks, including illegal building works. The following are actual claims examples and illustrate how such coverage benefits home owners who discover problems after they have bought and moved in to their new home.

The Insureds purchased a property, obtaining a **Home Owners GOLD** Policy to protect their interest should there be any problems. The couple discovered that their property had illegal building works; however this only came to light when they wanted to sell the property. Whilst the illegal works existed at the time they bought the property, they were not revealed in a Building Certificate as a result of an omission. The Council records were subsequently amended, which meant a new purchaser would be able to discover the defect by obtaining a Building Certificate. As a result, the price that they would most likely have obtained for the property was diminished because of the defect.

### Action

Pursuant to the coverage available under the Policy, **First Title** paid to have an independent valuer assess the loss the insureds would suffer in respect of the diminution in value of the property. The valuer reported a diminution in the value of the property as a result of the defect. **First Title** paid the couple the amount of the diminution as their loss.

The Insureds purchased their new home. Some time after they moved in, work was being carried out on the adjoining property when the insured experienced problems with their sewer. After making enquiries with Sydney Water, the problem quickly rose to the surface! It was discovered that the plumbing and drainage work carried out on the insureds' property was completed without inspection and approval by Sydney Water.

When the property was purchased, the property formed part of a larger property that had recently been subdivided. The sewerage diagram attached to the contract did not disclose any issues, although it related to the original property before subdivision. When the property was subdivided, the plumbing work in connecting the sewer to the subdivided property was carried out without inspection and did not meet Sydney Water's requirements.

### Action

**First Title** organised for all the plumbing work necessary to make the sewer line compliant and for Sydney Water to issue a new Sewerage Services Diagram, bearing all costs associated with this.

## Boundary Problems / Survey Insurance

There are often time and cost considerations which mean a boundary survey is not obtained. **First Title's Home Owners GOLD** covers loss arising from anything that a survey would have shown, had it been carried out. The following claims are examples of how this important coverage provides comfort to a home owner.

The Insureds purchased a rural property as a weekend retreat. They did not have a survey carried out, relying instead on the coverage and protection afforded pursuant to the **Home Owners GOLD** policy. There was nothing to indicate there were any boundary issues during the purchase process.

After they bought the property, their neighbour asserted that he owned part of their land. The neighbour gained entry to their land and graded a road through their property to one of his blocks of land. He also fenced off part of their property claiming he owned part of their land.

### Action

Pursuant to the terms of the Policy, **First Title** accepted the insureds' claim and instructed a fresh survey to be carried out on the property in order to determine boundary lines. Under the policy, **First Title** met all legal costs under the Duty to Defend and assisted the insureds in resolving the problem.

