

Home Owners GOLD

Purchasers

Policy Wording



Innovation · Information · Insurance

V0709

1. INTRODUCTION

1.1 ABOUT HOME OWNERS GOLD

Home Owners GOLD is a comprehensive title insurance policy that insures an owner of residential property against a range of risks that may affect use and ownership of the property being acquired. Please read the Coverage Statement (paragraph 3) very carefully. The policy also obliges First Title to provide and pay for a legal defence for the insured property owner against insured risks in the event of a claim.

Home Owners GOLD enables the administration connected with buying or selling land to be reduced whilst the protection that the new owner receives against property ownership risks is greatly improved. The policy also insures the insured owner's heirs, or any beneficiaries of a trust that the insured owner might create. The Home Owners GOLD Policy is not an annual policy and coverage protects the insured forever.

First Title typically requires your Conveyancing Practitioner to order the policy on your behalf. The Conveyancing Practitioner is required to prepare a "Report on Title" for which the Conveyancing Practitioner may be paid a fee. First Title will also waive rights of subrogation against, and provide an indemnity to, your Conveyancing Practitioner in certain circumstances. Where they receive those benefits, the Conveyancing Practitioner is required to disclose this to you.

1.2 WHO ISSUES HOME OWNERS GOLD?

First American Title Insurance Company of Australia Pty Limited (trading as "First Title") is the insurance company that issues the Home Owners GOLD policy. We refer to the insurer as First Title in this document. First Title is authorised by the Australian Prudential Regulation Authority to carry on insurance business in Australia and holds an Australian Financial Services (AFS) Licence, number 263876 issued by the Australian Securities and Investments Commission. The AFS licence authorises First Title to provide general insurance product advice and to deal in general insurance products to retail and wholesale clients. First Title is part of a worldwide insurance group owned by First American Financial Corporation.

For information about First Title or the First American Financial Corporation:

Phone: 1300 362 178

Email: info@firsttitle.com.au

Website: www.firsttitle.com.au

1.3 POLICY CONDITIONS AND EXCLUSIONS FROM COVER

It is important that you read this policy document carefully. It contains various exclusions from cover and conditions. The insurance provided by Home Owners GOLD may be affected if these conditions are not complied with.

1.4 YOUR DUTY OF DISCLOSURE

Before a person enters into a contract of general insurance with an insurer, they have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that they know, or a reasonable person in the circumstances could be expected to know, which is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on what terms.

A person has the same duty to disclose those matters to the insurer before they renew, extend, vary or reinstate a contract of general insurance. That duty however does not require disclosure of a matter that diminishes the risk to be undertaken by the insurer; that is of common knowledge; that the insurer knows or, in the ordinary course of business, ought to know; or where the insurer waives compliance with that duty.

With your Home Owners GOLD policy, you must disclose any matter that you become aware of prior to the Policy Date that may impact on coverage. If you become aware of something and you are not sure whether to disclose it to us, simply contact us using the telephone number in paragraph 1.2 above and we can discuss this with you.

If you fail to comply with your duty of disclosure in respect of this policy, First Title may be entitled to reduce its liability under Home Owners GOLD in respect of a claim or may cancel the contract of general insurance. If your non-disclosure is fraudulent, First Title may also have the option of avoiding the Home Owners GOLD from its beginning.

1.5 PRIVACY STATEMENT

We are committed to protecting the privacy of your personal information.

That commitment is reflected in our compliance with the National Privacy Principles.

First Title collects personal information about you:

- to assess your request for insurance and to administer your policy;
- to underwrite and price any policy issued by us;
- to investigate, assess and pay any claim made by or against you.

Unless we are required by law to provide personal information to others, your personal information will only be seen or used by:

- our own staff and contracted staff;
- claims adjusters, lawyers and others appointed by us or on behalf of us for claims handling purposes;
- our related entities;
- our reinsurers and reinsurance brokers (which may include persons or entities located outside Australia); and
- any distributors of the policy or authorised representatives appointed by us.

By submitting your information to us either directly, via your Conveyancing Practitioner or a third party, you agree to us using and disclosing it as outlined in this statement.

If you do not provide the information requested, your application for insurance may not be accepted, or we may not be able to administer your policy, or your may breach your Duty of Disclosure, the consequences of which are set out in clause 1.4 above.

You have a right to access any personal information that we hold about you.

For further details of First Title's Privacy Policy or to request access to or correct your personal information, please email privacy@firsttitle.com.au, or call our Privacy Officer on (02) 8235 4433.

1.6 DISPUTE RESOLUTION

First Title is a member of Financial Ombudsman Service, a dispute resolution service for consumers. The policy conditions include a process for resolving any dispute that you may have. This is detailed in paragraph 6.9 of the Conditions.

2. DEFINITIONS

In this policy, the following terms have the following meanings:

- 2.1 "Certificates" means, in relation to the Land:
- 2.1.1 a certificate from the State Revenue Office in respect of any land tax (and rates and other charges if appropriate) due and payable pursuant to relevant legislation;
- 2.1.2 a certificate from the relevant city, municipal or shire council in respect of any outstanding rates, charges and money due and payable pursuant to relevant legislation;
- 2.1.3 a certificate from the relevant water supplier in respect of any outstanding water and sewerage rates, charges and money due and payable;
- 2.1.4 a certificate in respect of any outstanding money due and payable to an Owners Corporation, Body Corporate or Strata Management Company (as applicable).
- 2.2 "Company, we, us, First Title" means First American Title Insurance Company of Australia Pty Limited ACN 075 279 908.
- 2.3 "Conditions" means the terms and conditions on which this policy is issued which are described in the section called Conditions.
- 2.4 "Covenant" means a legal promise or obligation to do something.
- 2.5 "Covered Risks" means the risks, matters and circumstances that this policy protects you against. These are described in the section called Covered Risks.
- 2.6 "Easement" means the right of someone else to use your Land for a special purpose, including having a right of way.
- 2.7 "Exclusions" means the matters which limit the protection that this policy provides and the circumstances in which a claim made by you could be denied by us. These are described in the section called Exclusions.
- 2.8 "Illegal Building Work" means work carried out in respect of any structure on the Land that, where approval is required, has not been approved by the relevant city, municipal or shire council or government body (where relevant) in the Jurisdiction or that has been carried out pursuant to approvals provided by the relevant city, municipal or shire council or government body (where relevant) but fails to comply with the relevant building codes and / or regulations in contravention of the Laws.
- 2.9 "Insured" means the persons or entities named in Paragraph 1 of the Schedule.
- 2.10 "Conveyancing Practitioner" means the individual who is retained by the Insured and acts for the Insured in a conveyancing transaction in respect of the purchase of the Land and who is either a solicitor licensed to practice law or a licensed conveyancer entitled to practice in the Jurisdiction.
- 2.11 "Jurisdiction" is the State or Territory in which the Land is situated.
- 2.12 "Land" means the land described in the Schedule and any structures on that land and, in the case of Australian Capital

Territory, includes Crown Leasehold land.

- 2.13 "Mortgage" means a mortgage, charge or other document which is meant to secure repayment of a monetary debt.
- 2.14 "Laws" means, without limitation, all federal, state, territory or local authority laws (statutory or otherwise), orders, codes, regulations, ordinances and proclamations which have force and effect in the Jurisdiction.
- 2.15 "Policy Amount" means the amount shown in the Schedule which may be increased by inflation, as detailed in paragraph 6.2 of the Conditions.
- 2.16 "Policy Date" means the policy date specified in the Schedule.
- 2.17 "Public Records" means records established or maintained at the Policy Date, under Laws and which impart constructive notice of matters relating to property (freehold or leasehold) in the Jurisdiction to those acquiring an interest in it for value.
- 2.18 "Restriction" or "Restrictive Covenant" means a legal promise not to do something.
- 2.19 "Schedule" means the policy schedule attached to and forming part of this policy. This policy is not complete without this schedule.
- 2.20 "State Revenue Office" means the relevant government body responsible for, amongst other things, revenue administration, including land tax, in the Jurisdiction.
- 2.21 "Title" means the ownership of your interest in the Land, as shown in the Schedule.
- 2.22 "you, your" means the insured named in paragraph 1 of the Schedule and those persons described in paragraph 6.1 of the Conditions.

3. COVERAGE STATEMENT

This policy insures your ownership interest in the Land described in the Schedule. Your insurance, as described in the Covered Risks below, is effective on the Policy Date. Your insurance is limited by the Exclusions and additional matters that may be contained in paragraph 4 of the Schedule, the Conditions which you should read very carefully and your duty of disclosure which is summarised in the Introduction to this Policy.

We insure you against actual loss resulting from the Covered Risks up to the Policy Amount, and any costs, legal fees and expenses we have to pay under this policy. We do not insure you in respect of destruction of or damage to a building on the Land.

This policy is not complete without the Schedule.

4. COVERED RISKS

PROPERTY INQUIRY RISKS OCCURRING BEFORE THE POLICY DATE

- 4.1 Any errors made by the relevant city, municipal or shire council, water supplier, the State Revenue Office or the Owners Corporation, Body Corporate or Strata Management Company (if applicable)

in providing the Certificates in response to a search of the Public Records by the Insured or the Conveyancing Practitioner on or before the Policy Date to establish whether there are any outstanding rates, charges, land tax and other money due and payable in respect of the Land.

- 4.2 Any errors made by the Conveyancing Practitioner when reporting to the Insured the amount due for rates, water, land tax or other charges or sums due to the Owners Corporation, Body Corporate or Strata Management Company (if applicable) stated in the Certificates provided by the relevant city, municipal or shire council, water supplier, State Revenue Office or the Owners Corporation, Body Corporate or Strata Management Company (if applicable) as to any amounts due and payable in respect of the Land.
- 4.3 The Land is subject to any proposal to acquire a right or interest in, or part of the Land by compulsory acquisition under relevant Laws that would have been disclosed had appropriate enquiries of the Public Records been made, or were not disclosed due to errors contained in the results to those enquiries which were made, on or before the Policy Date.
- 4.4 The Land is subject to any other adverse circumstances affecting the Land in relation to heritage issues, Easements granted pursuant to Laws or drainage and / or sewerage issues that would have been disclosed had appropriate enquiries of the Public Records been made, or were not disclosed due to errors contained in the results to those enquiries which were made, on or before the Policy Date.

4.5 Any violation of Laws, encroachment or adverse circumstances affected the Land which would have been disclosed by an accurate survey reporting on the position of buildings erected on, and the boundaries of, the Land, if such a survey of the Land had been carried out by a registered surveyor on the Policy Date.

4.6 Any loss or damage to the Insured, other than relating to a boundary fence or wall, because under the provisions of the relevant Laws there is Illegal Building Work and:

- (a) the Insured is ordered to demolish, alter, add to or repair any building, or part thereof, on the Land; and / or
- (b) proceedings are commenced against the Insured for an order or injunction requiring any building, or part thereof, on the Land to be demolished, altered, added to or repaired

and this would have been disclosed if an appropriate inquiry had been made on or before the Policy Date.

GENERAL OWNERSHIP RISKS OCCURRING BEFORE THE POLICY DATE

- 4.7 The owner of the estate or interest in the Land is different to that described in paragraph 1 of the Schedule.
- 4.8 Someone else owns an interest in (including as a result of a Court order arising from a matrimonial dispute), has a Mortgage, Easement, lease, contract,

- option, right of possession or access order over or has other rights to the Land.
- 4.9 Someone lodges a dealing preventing your interest in the Land from being registered.
- 4.10 Your Title is unmarketable, which allows another person to refuse to perform a contract to purchase, take a lease or make a loan secured by a Mortgage.
- 4.11 Forgery, fraud, duress, incompetency, incapacity or impersonation which results in a defect in the title to the Land.
- 4.12 A document is not properly signed.
- 4.13 Defective registration of any document.
- 4.14 You do not have any legal right of access either on foot or by vehicle to and from the Land.
- 4.15 You do not have any legal right of water supply or drainage to and from the Land.
- 4.16 There are Restrictive Covenants, Restrictions or Easements on your Title which have not been complied with or observed or which limit your use of the Land.
- 4.17 You cannot use the Land as your home because:
- use, for that purpose violates any Restriction, grant, exception or reservation referred to in Exclusion 5.6; or
 - of existing zoning Laws; or
 - in the case of Land located in the Australian Capital Territory, use for that purpose violates the provisions of the Crown Lease.
- 4.18 If the Land is sited on a subdivision, there is a breach of Laws relating to the subdivision under which the Land, as a separate parcel, was created.
- 4.19 Any other defect exists which affects the title to the Land.

GENERAL OWNERSHIP RISKS WHICH MAY OCCUR BEFORE OR AFTER THE POLICY DATE

- 4.20 Someone else claims to have an interest in or an encumbrance, charge or lien on the title to the Land because of:
- an act of forgery or fraud; or
 - a mistake by a title registry or a governmental authority.
- 4.21 Someone lodges a dealing after the Policy Date which prevents your Title from being registered.
- 4.22 Someone else, after the Policy Date, builds a structure, other than a boundary wall or fence, which encroaches on to the Land.
- 4.23 Because another person uses the surface or sub-surface of your Land for the extraction or development of minerals, water or other substances owned by them or the creation or maintenance of sewerage, gas, telecommunications or electricity installations for which they have a legal right:
- you are prevented from using the Land as a residence; or
 - you are forced to rectify or remove all or part of existing buildings on the Land; or
 - another person has the right and

refuses to complete a contract to purchase, lease or make a mortgage loan.

COMPANY'S DUTY TO PROTECT YOU

We will defend you against any challenge to your Title which is based on a Covered Risk. We will pay the costs, legal fees, and expenses we incur in that defence.

We can end this duty to defend your Title by exercising any of our options listed in the Conditions.

5. EXCLUSIONS

In addition to any exclusions referred to in paragraph 4 of the Schedule, you are not insured against loss, costs, legal fees and expenses resulting from:

- 5.1 The existence or violation of any Laws or bylaws, or future action by the government concerning:
- land use;
 - structures built on the Land;
 - environmental protection;
 - conservation; or
 - mining.
- This exclusion does not apply to violations or the enforcement of those matters which appear in the Public Records at the Policy Date and does not limit the coverage described in paragraphs 4.3, 4.4, 4.6 and 4.17 of the Covered Risks.
- 5.2 The right to take the Land by compulsory acquisition unless:
- a notice of the intention to exercise the right appears in the Public Records on the Policy Date; or
 - the compulsory acquisition happened prior to the Policy Date and is binding on you because you bought the Land without knowledge of it.
- This exclusion does not limit the coverage described in paragraph 4.3.
- 5.3 Utility company Easements and their rights to carry out works affecting the Land – this does not limit the coverage described in paragraphs 4.3, 4.4 or 4.23 of the Covered Risks.
- 5.4 RISKS:**
- that are created, allowed, or agreed to by you;
 - that are actually known to you, but not to us, on the Policy Date - unless they appeared in the Public Records;
 - that result in no loss to you;
 - that first affect your Title or Land after the Policy Date - this does not limit the coverage described in paragraphs 4.20 to 4.23 of the Covered Risks mentioned above.
- 5.5 LACK OF A RIGHT:**
- to any land outside the area specifically described and referred to in the Schedule; or
 - in the streets, lanes or waterways that touch the Land. This exclusion does not limit the coverage provided by paragraphs 4.5, 4.14 and 4.15 of the Covered Risks.
- 5.6 MATTERS WHICH AFFECT YOUR TITLE:**
- Any rights and interests reserved to the Crown, Easements, Covenants, Restrictions, Restrictive Covenants, Leases (including the Crown Lease) or

Mortgages recorded on your Title on the Policy Date. This Exclusion does not limit the coverage provided by Covered Risks 4.6, 4.8, 4.9, 4.13, 4.16, 4.17, 4.18 and 4.23, except that coverage for Restrictive Covenants is excluded for Land situated in Queensland.

5.7 WORKMANSHIP, INFESTATION AND DILAPIDATION:

Structures which have not been built in accordance with applicable building codes and standards or the infestation or dilapidation of those structures. This Exclusion does not limit the coverage provided by Covered Risk 4.6.

5.8 EXCLUDED TITLE CLAIMS:

- Native title;
- Company title;
- Moiety title (in South Australia); or
- Purple title (in Western Australia) claims in relation to the Land.

5.9 PROPERTY USED FOR BUSINESS PURPOSES:

Any business or commercial activity, other than an inability to lease all or any part of the structures on the Land for residential purposes, only as a result of the covered risks.

5.10 ADDITIONAL EXCLUSIONS:

There may be additional Exclusions contained in paragraph 4 of the Schedule.

6. CONDITIONS

6.1 CONTINUATION OF COVERAGE:

This policy protects you forever, even after you no longer own your Title. You cannot assign this policy to anyone else. This policy also protects:

- your spouse or legal partner who receives your Title for nominal consideration;
- the trustee or successor trustee of a trust to whom you transfer your Title, in which you are the settlor;
- any beneficiary of a trust of which you are a trustee, to whom you transfer the title to the Land; or
- anyone who receives your Title because of your death.

We keep any rights and defences which we would have had against you against these other people. This policy does not protect anyone purchasing the Land from you.

6.2 INFLATION COVERAGE:

The Policy Amount that is insured by this policy will increase based upon an increase in the fair market value of the Land up to a maximum of 200% of the Policy Amount.

6.3 HOW TO MAKE A CLAIM:

- You must give the Company prompt notice of your claim:

If you have a claim under this policy, you must notify us promptly in writing. Send the notice to:

Claims Department
 First American Title Insurance Company of Australia Pty Limited
 PO Box Q1465
 QVB Post Shop
 Sydney NSW 1230
 Australia.

Please include the policy number and the full postal address of the Land.

Our obligation to you will be reduced if:

(a) you fail to give us prompt notice; and

(b) your failure affects our ability to dispose of a claim or to defend you against the challenge to your Title.

6.3.2 Proof of your loss must be given to the Company:

You must give us a written statement to prove your claim of loss. This statement must be given to us not later than 90 days after you know the facts which will let you establish the amount of your loss. The statement must contain the following facts:

(a) the Covered Risk which resulted in your loss;

(b) the monetary amount of your loss;

(c) the method you used to compute the amount of your loss.

You may want to provide us with an appraisal of your loss by a professional valuer as part of your statement of loss.

We may require you to show us your records, cheques, letters, contracts and other papers which relate to your claim of loss. We may make copies of these papers and retrieve any that are stored electronically. We may require you to answer questions under oath.

Our obligation to you could be reduced if you fail or refuse to:

(a) provide a statement of loss;

(b) answer our questions truthfully; or

(c) show us the papers we request; and your failure or refusal affects our ability to dispose of or to defend you against the challenge to your Title.

6.4 OUR CHOICES WHEN YOU NOTIFY US OF A CLAIM:

After we receive your claim notice or in any other way learn of a matter for which we may be liable, we can do one or more of the following:

6.4.1 pay the claim against your Title;

6.4.2 negotiate a settlement;

6.4.3 prosecute or defend a court case related to the claim;

6.4.4 pay you the amount required by this policy;

6.4.5 take other action which will protect you;

6.4.6 cancel the coverage described in paragraph 4.1 – 4.4 (inclusive) and 4.6 of the Covered Risks by paying the amount of insurance specified in those paragraphs (as may be applicable) as the limit for that Covered Risk and only those costs, legal fees and expenses incurred up to that time which we are obliged to pay;

6.4.7 or cancel this policy by paying the Policy Amount, then in force, and only those costs, legal fees and expenses incurred up to that time which we are obliged to pay.

If you have a mortgage registered against your Title on the date that you make a claim; the consent of your mortgagee may be required before your claim can be settled.

6.5 HANDLING A CLAIM OR COURT CASE:

6.5.1 you must co-operate with us in handling any claim and give us all relevant information;

6.5.2 we are required to repay you only for those settlement costs, legal fees and expenses that we approve in advance;

6.5.3 when we defend your Title, we have the right to choose the lawyer;

6.5.4 and we can appeal any decision to the highest court. We do not have to pay your claim until your case is finally decided.

6.6 LIMITATION OF THE COMPANY'S LIABILITY:

We will pay the least of:

6.6.1 your actual loss;

6.6.2 the Policy Amount in force when the claim is made;

6.6.3 \$1,500,000 if the claim is based on the coverage given in paragraphs 4.1 – 4.4 (inclusive); or

6.6.4 \$100,000 if the claim is based on the coverage given in paragraph 4.6 of the Covered Risks.

If we remove the claim against your Title within a reasonable time after receiving notice of it, we will have no further liability for it.

If you cannot use any part of your Land as your principal residence because of a claim against your Title, you may rent a reasonably equivalent substitute property and we will repay you for your actual rent until:

- (a) the cause of the claim is removed;
- (b) we settle your claim; or
- (c) in the event that your claim is based on paragraphs 4.1 – 4.4 (inclusive) or 4.6 of the Covered Risks, we will be deemed to have settled your claim by paying the lesser of the Policy Amount then in force or the maximum amount specified in paragraphs 4.1 – 4.4 (inclusive) or 4.6 and we will also have satisfied our obligation to pay your rent under these paragraphs.

The Policy Amount will be reduced by all payments under this policy – except for costs, legal fees and expenses. All payments made under this policy for claims based on paragraphs 4.1 – 4.4 (inclusive) or 4.6 of the Covered Risks will also reduce the maximum amount specified in paragraphs 4.1 – 4.4 (inclusive) or 4.6. The Policy Amount will also be reduced by any amount we pay to the holder of any Mortgage shown in this policy insured by us or a later Mortgage given by you.

If you do anything to affect any right of recovery you or we may have, we can subtract from our liability the amount by which you reduced the value of that right.

6.7 TRANSFER OF YOUR RIGHTS:

When we settle a claim, we have all the rights you had against any person or property related to the claim. You must transfer these rights to us when we ask, and you must not do anything to affect these rights. You must let us use your

name in enforcing these rights.

We will not be liable to you if we do not pursue these rights or if we do not recover any amount that might be recoverable.

With the money we recover from enforcing these rights, we will pay whatever part of your loss we have not paid. We have a right to keep what is left.

6.8 OUR LIABILITY IS LIMITED TO THIS POLICY:

This policy, plus any endorsements, is the entire contract between you and the Company. Any claim you make against us must be made under this policy and is subject to its terms.

6.9 DISPUTES AND CLAIMS HANDLING:

6.9.1 If you have an enquiry about your insurance under this policy or the handling of a claim, you should first contact the Company's General Manager, Risk Management Group at the address shown in paragraph 6.3. Alternatively, if you have a complaint, you should write to or contact our Chief Executive Officer at the same address. We will strive to ensure that your enquiries or complaints are resolved fairly and promptly.

6.9.2 Any dispute concerning the interpretation of this policy will be dealt with in accordance with the laws of New South Wales.

6.9.3 The Company is a member of the Financial Ombudsman Service, a dispute resolution service for consumers that you can approach for the resolution of a dispute with the Company.

www.firsttitle.com.au

1300 362 178



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