



Précis Paper

Emergency Coastal Protection Works

A discussion of the issues conveyancers need to be aware of when dealing with coastal properties.

Discussion Includes

- Coastal protection issues
- Temporary sea walls
- Changes in legislation
- How to act on behalf of a potential purchaser or a vendor
- Coastal erosion and coastal care
- Summary

Précis Paper

Emergency Coastal Protection Works

1. In this edition of BenchTV, Garth Brown (Brown and Brown Conveyancers) and Jennifer Treur (JAM Directions) discuss the issues conveyancers need to be aware of when dealing with coastal properties.

Coastal Protection Issues

2. Coastal erosion is a major issue for people living close to the seaside, where there can be damages to the coastline directly impacting the landscape on which the property is located.
3. Beach storms, rising shorelines and damage from large waves cause the coastline to erode, sometimes quite suddenly.
4. There can also be beach accretion, which is where there will be an increase of sand which has moved from another area that has been depleted.
5. These problems can destroy property.

Temporary Sea Walls

6. Owners are allowed to put up temporary sea walls.
7. It more usually applies to those properties that do not face the open beach but are situated on inland rivers and estuaries.
8. These properties are under strict council regulations. It is necessary to contact the council before erecting any temporary coastal protection, otherwise it could lead to litigation.
9. It is best to create a good relationship with your council.

Changes in Legislation

10. In Schedule 3 Clause 24 of the *Conveyancing Sale of Land Regulations 2017 (NSW)* there is a reference to Section 4D Protection Orders. This refers to the old *Coastal Protection Act 1979 (NSW)*. Under those regulations, if there was an order to remove or repair a temporary seawall and this wasn't disclosed in the contract, you could get out of the contract before settlement.
11. However, the 1979 Act was replaced in 2018 by the *Coastal Management Act 2016 (NSW)*.
12. This means that a person is no longer able to get out of a contract in the event of an undisclosed coastal protection order.
13. The *Conveyancing Sale of Land Regulations* need to be updated.

How to act on behalf of a potential purchaser or a vendor

14. Tell your purchaser not to sign anything until the issue of temporary coastal protection has been looked at.
15. If they have occurred, does the vendor have a compliance certificate?
16. If you are acting for a vendor, all of the appropriate questions have to be asked so that you have as much information as possible.

Coastal erosion and coastal care

17. The local council is responsible for coastal care.
18. Each council down the NSW coastline has different plans implemented that fit in with each other.

Summary

19. Manage your risk by asking the local body if there have been any orders at the council.
20. Ask your client whether purchaser or vendor if they are aware any of these issues.
21. Make as many inquiries as possible when dealing with coastal properties.

BIOGRAPHY

Garth Brown

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Garth Brown is a Degree Qualified Accountant and Certified Conveyancing premium property specialist. He was awarded conveyancer of the year AICNSW 2015 at Brown and Brown Conveyancers and is an expert legal consultant, law firm coach and industry thought leader with over 20 years' experience.

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Jennifer Treur is creative director and owner of JAM Directions - an award winning creative production company based in Sydney. JAM consults to companies on Branding, Marketing and Online solutions.

BIBLIOGRAPHY

Legislation

Conveyancing Sale of Land Regulations 2017 (NSW)

Coastal Protection Act 1979 (NSW)

Coastal Management Act 2016 (NSW)