

Climate

CLIMATE
Risk
& PRACTITIONERS

What you need to know & WHY

Navigating climate risks and disclosures within the existing legal framework can be challenging across the various jurisdictions



CLIMATE PERILS

Climate change and its impacts, particularly in terms of extreme weather conditions such as flooding, heatwaves, droughts, bushfires, intense storms and coastal erosion, are becoming more and more prevalent and business, government agencies and individuals are facing new risks, liabilities and challenges in light of this. Property is one of the areas where the risks of climate-related events are most obvious and significant, particularly due to the physical impacts of severe weather events on buildings and the impacts of these more frequent and extreme events on financing and insurability.



TARGET LEGAL FRAMEWORK

Solicitors and other legal property professionals (i.e. conveyancers) that advise on property transactions owe various duties to their clients arising from the terms of the retainer (or contract of engagement) entered into, their professional conduct obligations and/or the law of negligence. This includes a general duty to exercise the skill and care of a reasonably competent practitioner and the duty to disclose all relevant information and warn a client about potential risks and Implications that arise from this information.



CUSTOMER CONVERSATIONS

It is now arguable that climate related risks are a sufficiently foreseeable physical risk. Consequently, solicitors and conveyancers should be advising their clients about the possibility of climate related risks to ensure they discharge their duty of care.



HOW CAN WE HELP

One way this can be done is through a climate and hazard risk report (such as the product offered by EDH) and, if such a report is obtained, explaining the findings of that report to the client. Importantly, solicitors and conveyancers are not technical experts, and it may be necessary, if a red flag is identified, for the solicitor or conveyancer to direct the client to a technical consultant with the relevant expertise to advise further on the likelihood and consequences of any risk.

Want to know more?

Tim Osborne, Director



tim.osborne@edhconsulting.com.au