

ClimatIndex client engagement letter

As a Real Estate Lawyer/Conveyancer, we have a duty of care to advise and warn our clients about climate risks. As such it is the policy of our firm to purchase a ClimatIndex report which aids in the identification of present and future risks, exacerbated by climate change which may impact upon your purchase. The ClimatIndex report provides a property specific rating based on a number of physical perils; river, coastal and surface water flooding, the risk from bushfires and coastal erosion. The risk is presented over 2 key time horizons (today and 30 years).

Reporting the results of the search - example clauses

Pretext

The Law Society of New South Wales has established a Working Group to consider how best to support its members in relation to the legal implications of climate change. Preceding this, in 2021, the Law Council of Australia stated ***“Lawyers should be alive to the unfolding legal implications of climate change and its consequences, and they should be informed, skilled and ready to assist clients on climate change-related legal matters, within their areas of skill and competence.”***

The Law Society of England and Wales has led the way by launching guidance to all its members on their duty to report on climate change. **We anticipate similar guidance to be produced by The Law Society of New South Wales.**

A core element of a lawyer's duty is to report back to their client. The most effective way to do this is to use specific climate clauses such as those produced by **The Chancery Lane Project (TCLP)**.

TCLP is the largest global network of lawyers and business leaders using the power of climate contracting to deliver fast and fair decarbonisation. Groundsure, in conjunction with TCLP has drafted an amendment to its original **Marni's clause**, which can be used in addition to standard reports on title to reflect the results of a climate search for the property.

These clauses will also help fulfil your duty of care and duty to warn your clients, as identified in the [recent Norton Rose Fulbright legal opinion on climate risks for New South Wales Property Transactions](#).





**Insert for all risks
Report to the client**

1. Interpretation

The following terms are used in this report:

Climate Change means the long-term and material changes in global or regional weather patterns including, temperature, humidity, precipitation, or wind.

2. Scope of the Review and Limitation of Liability

Critical climate information is available for the Property to assess it for certain future physical impacts arising from Climate Change.

Physical risk	Included in the Climate search for the property	Not included in the Climate search for the property
Subsidence		N
Coastal erosion	Y	
Fluvial (river) flooding	Y	
Pluvial (surface) flooding	Y	
Coastal (tidal) flooding	Y	
Heat stress		N
Drought		N
Wildfires	Y	
Transition risk		
Insurability	Y	
Property value/cost to maintain or retrofit	Y	

Please note that the climate searches do not currently cover all of the above climate risks. We have summarised the the findings of the climate search:



ClimateIndex score inserts for client advisory

The following additional clauses should be inserted to aid reporting the results of ClimateIndex™ to your client. [N.B. If the risk increases from today, in 5 or in 30 years time, multiple templates may be required]:

Properties rated A (Very Low) today, in 5 or in 30 years time

The Property passed the climate search dated [insert date]. The search is attached.

As climate models are continually evolving we recommend carrying out a new climate search in 10 years or when the property is next sold, whichever is sooner.

Properties rated as A (Low) today, in 5 or in 30 years time

The Property passed the climate search dated [insert date], with some minor considerations. The search is attached, and we recommend reviewing the guidance.

As climate models are continually evolving we recommend carrying out a new climate search in 10 years or when the property is next sold, whichever is sooner.

Properties rated as B today, in 5 or in 30 years time

The property has a Low to Moderate risk of being impacted by [insert risks], either today, in 5 or in 30 years time.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks

Properties rated as C today, in 5 or in 30 years time

The property has a Moderate risk of being impacted by [insert risks], either today, in 5 or in 30 years time. This means you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.

Properties rated as D today, in 5 or in 30 years time

The property has a Moderate to High risk of being impacted by [insert risks], either today, in 5 or in 30 years time. This means you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.

Properties rated as E today, in 5 or in 30 years time

The property has a High risk of being impacted by [insert risks], either today, in 5 or in 30 years time. This means you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.

Properties rated as F today, in 5 or in 30 years time

The property has a Very High risk of being impacted by [insert risks], either today, in 5 or in 30 years time. This means you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.

Examples:

Properties rated as D today, in 5 and 30 years time

The property has a Moderate to High risk of being impacted by [insert risks], today, in 5 and in 30 years time. This means you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.

Properties rated as C today and in 5 years time and rated as E in 30 years time

The property has a Moderate risk of being impacted by [insert risk] today and in 5 years time, and a High risk of being impacted by [insert risk] in 30 years time. This means that climate change does cause these risks to worsen over time and you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.

Properties rated as B today, D in 5 years time and E in 30 years time

The property has a Low to Moderate risk of being impacted by [insert risk] today, a Moderate to High risk in 5 years time and a High risk of being impacted by [insert risk] in 30 years time. This means that climate change does cause these risks to worsen over time and you may experience issues obtaining insurance or mortgage lending.

We are not qualified to comment on the technical aspects of climate change risk, but as per the report we recommend the following:

Insert recommendations based on the identified risks.